SOUTH CAROLINA
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

AIR POLLUTION CONTROL REGULATIONS AND STANDARDS

REGULATION 61-62.5
AIR POLLUTION CONTROL STANDARDS

STANDARD NO. 7
PREVENTION OF SIGNIFICANT DETERIORATION

(a)(1) Reserved.

(2) **Applicability procedures.**

(i) The requirements of this regulation apply to the construction of any new major stationary source (as defined in paragraph (b)(32)) or any project at an existing major stationary source in an area designated as attainment or unclassifiable under 40 CFR 81.341.

(ii) The requirements of paragraphs (j) through (r) apply to the construction of any new major stationary source or the major modification of any existing major stationary source, except as this section otherwise provides.

(iii) No new major stationary source or major modification to which the requirements of paragraphs (j) through (r)(5) apply shall begin actual construction without a permit that states that the major stationary source or major modification will meet those requirements. The Department has authority to issue any such permit.

(iv) The requirements of the program will be applied in accordance with the principles set out in paragraphs (a)(2)(iv)(a) through (f).

(a) Except as otherwise provided in paragraphs (a)(2)(v) and (vi), and consistent with the definition of major modification contained in paragraph (b)(30), a project is a major modification for a regulated New Source Review (NSR) pollutant if it causes two types of emissions increases – a significant emissions increase (as defined in paragraph (b)(50)), and a significant net emissions increase (as defined in paragraphs (b)(34) and (b)(49)). The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.

(b) The procedure for calculating (before beginning actual construction) whether a significant emissions increase (*i.e.*, the first step of the process) will occur depends upon the type of emissions units being modified, according to paragraphs (a)(2)(iv)(c) through (f). The procedure for calculating (before beginning actual construction) whether a significant net emissions increase will occur at the major stationary source (*i.e.*, the second step of the process) is contained in the definition in paragraph (b)(34). Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.

(c) **Actual-to-projected-actual applicability test for projects that only involve existing emissions units.** A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions (as defined in paragraph (b)(41)) and the

baseline actual emissions (as defined in paragraphs (b)(4)(i) and (ii)), for each existing emissions unit, equals or exceeds the significant amount for that pollutant (as defined in paragraph (b)(49)).

(d) **Actual-to-potential test for projects that only involve construction of a new emissions unit(s).** A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the potential to emit (as defined in paragraph (b)(37)) from each new emissions unit following completion of the project and the baseline actual emissions (as defined in paragraph (b) (4)(iii)) of these units before the project equals or exceeds the significant amount for that pollutant (as defined in paragraph (b)(49)).

(e) **Emission test for projects that involve Clean Units.** For a project that will be constructed and operated at a Clean Unit without causing the emissions unit to lose its Clean Unit designation, no emissions increase is deemed to occur.

(f) **Hybrid test for projects that involve multiple types of emissions units.** A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in paragraphs (a)(2)(iv)(c) through (e) as applicable with respect to each emissions unit, equals or exceeds, the significant amount for that pollutant (as defined in paragraph (b)(49)). For example, if a project involves both an existing emissions unit and a Clean Unit, the projected increase is determined by summing the values determined using the method specified in paragraph (a)(2)(iv)(c) for the existing unit and using the method specified in paragraph (a)(2)(iv)(e) for the Clean Unit.

(v) For any major stationary source for a Plantwide Applicability Limitation (PAL) for a regulated NSR pollutant, the major stationary source shall comply with the requirements under paragraph (aa).

(vi) An owner or operator undertaking a Pollution Control Project (PCP) (as defined in paragraph (b)(35)) shall comply with the requirements under paragraph (z).

(b) Definitions.

For the purposes of this regulation:

(1)(i) **"Actual emissions"** means the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in accordance with paragraphs (b)(1)(ii) through (iv), except that this definitions shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL under paragraph (aa). Instead, paragraphs (b)(41) and (b)(4) shall apply for those purposes.

(ii) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a consecutive 24-month period which precedes the particular date and which is representative of normal source operation. The Department shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(iii) The Department may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(iv) For any emissions unit that has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

(2) **"Adverse impact on visibility"** means visibility impairment which interferes with the management, protection, preservation or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairment, and how these factors correlate with (1) times of visitor use of the Federal Class I area, and (2) the frequency and timing of natural conditions that reduce visibility.

(3)"**Allowable emissions"** means the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

(i) The applicable standards as set forth in 40 CFR 60 and 61;

(ii) The applicable State Implementation Plan emissions limitation, including those with a future compliance date; or

(iii) The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.

(4) **"Baseline actual emissions"** means the rate of emissions, in tons per year, of a regulated NSR pollutant, as determined in accordance with paragraphs (b)(4)(i) through (iv).

(i) For any existing electric utility steam generating unit, baseline actual emissions means the average rate, in tons per year, at which the unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 5-year period immediately preceding when the owner or operator begins actual construction of the project. The Department shall allow the use of a different time period upon a determination that it is more representative of normal source operation.

(a) The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups and shutdowns.

(b) The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period.

(c) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.

(d) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by paragraph (b)(4)(i)(b).

(ii) For an existing emissions unit (other than an electric utility steam generating unit), baseline actual emissions means the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 10-year period immediately preceding either the date the owner or operator begins actual construction of the project, or the date a complete permit application is received by the Department for a permit required under this section or under a plan approved by the Administrator, whichever is earlier, except that the 10-year period shall not include any period earlier than November 15, 1990. The Department reserves the right to determine if the 24-month period selected is appropriate.

(a) The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups and shutdowns.

(b) The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive 24-month period.

(c) The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must currently comply, had such major stationary source been required to comply with such limitations during the consecutive 24-month period. However, if an emission limitation is part of a maximum achievable control technology standard that the Administrator proposed or promulgated under 40 CFR 63, the baseline actual emissions need only be adjusted if the State has taken credit for such emissions reductions in an attainment demonstration or maintenance plan consistent with the requirements of 40 CFR 51.165(a)(3)(ii)(G).

(d) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for all the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.

(e) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by paragraphs (b)(4)(ii)(b) and (c).

(iii) For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero; and thereafter, for all other purposes, shall equal the unit's potential to emit.

(iv) For a PAL for a stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in paragraph (b)(4)(i), for other existing emissions units in accordance with the procedures contained in paragraph (b)(4)(ii), and for a new emissions unit in accordance with the procedures contained in paragraph (b)(4)(iii).

(5)(i) **"Baseline area"** means any intrastate area (and every part thereof) designated as attainment or unclassifiable under section 107(d)(1)(D) or (E) of the Clean Air Act in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact equal to or greater than 1 $\mu g/m^3$ (annual average) of the pollutant for which the minor source baseline date is established.

(ii) Area redesignations under section 107(d)(1)(D) or (E) of the Clean Air Act cannot intersect or be smaller than the area of impact of any major stationary source or major modification which:

(a) Establishes a minor source baseline date; or

(b) Is subject to 40 CFR 51.166 and would be constructed in the same state as the state proposing the redesignation.

(iii) Any baseline area established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM_{10} increments, except that such baseline area shall not remain in effect if the Department rescinds the corresponding minor source baseline date in accordance with paragraph (b)(31)(iv).

(6)(i) **"Baseline concentration"** means that ambient concentration level that exists in the baseline area at the time of the applicable minor source baseline date. A baseline concentration is determined for each pollutant for which a minor source baseline date is established and shall include:

(a) The actual emissions, as defined in paragraph (b)(1), representative of sources in existence on the applicable minor source baseline date, except as provided in paragraph (b) (6)(ii); and

(b) The allowable emissions of major stationary sources that commenced construction before the major source baseline date, but were not in operation by the applicable minor source baseline date.

(ii) The following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(s):

(a) Actual emissions, as defined in paragraph (b)(1), from any major stationary source on which construction commenced after the major source baseline date; and

(b) Actual emissions increases and decreases, as defined in paragraph (b)(1), at any stationary source occurring after the minor source baseline date.

(7)"**Begin actual construction"** means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying underground pipework and construction of permanent storage structures. With respect to a change in method of operations, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

(8) **"Best available control technology"** means an emissions limitation (including a visible emission standard) based on the maximum degree of reduction for each regulated NSR pollutant which would be emitted from any proposed major stationary source or major modification which the Department, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR 60 and 61. If the Department determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard, or combination thereof, may be prescribed instead to satisfy the requirement for the application of best available control technology. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

(9) **"Building, structure, facility, or installation"** means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same first two digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0066 and 003-005-00176-0, respectively).

(10) **"Clean coal technology"** means any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility which will achieve

significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam which was not in widespread use as of November 15, 1990.

(11) **"Clean coal technology demonstration project"** means a project using funds appropriated under the heading "Department of Energy-Clean Coal Technology," up to a total amount of $2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the Environmental Protection Agency. The Federal contribution for a qualifying project shall be at least 20 percent of the total cost of the demonstration project.

(12) **"Clean Unit"** means any emissions unit that has been issued a major NSR permit that requires compliance with BACT or LAER, is complying with such BACT/LAER requirements, and qualifies as a Clean Unit pursuant to paragraph (x); or any emissions unit that has been designated by the Department as a Clean Unit, based on the criteria in paragraphs (y)(3)(i) through (iv).

(13) **"Commence"** as applied to construction of a major stationary source or major modification means that the owner or operator has all necessary preconstruction approvals or permits and either has:

(i) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

(ii) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

(14) **"Complete"** means in reference to an application for a permit, that the application contains all of the information necessary for processing the application.

(15) **"Construction"** means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) that would result in a change in actual emissions.

(16) **"Continuous emissions monitoring system (CEMS)"** means all of the equipment that may be required to meet the data acquisition and availability requirements of this regulation, to sample, condition (if applicable), analyze, and provide a record of emissions on a continuous basis.

(17) **"Continuous emissions rate monitoring system (CERMS)"** means the total equipment required for the determination and recording of the pollutant mass emissions rate (in terms of mass per unit of time).

(18) **"Continuous parameter monitoring system (CPMS)"** means all of the equipment necessary to meet the data acquisition and availability requirements of this regulation, to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O_2 or CO_2 concentrations), and to record average operational parameter value(s) on a continuous basis.

(19) **"Electric utility steam generating unit"** means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

(20) **"Emissions unit"** means any part of a stationary source that emits or would have the potential to emit any regulated NSR pollutant and includes an electric utility steam generating unit as defined in paragraph (b)(19). For purposes of this regulation, there are two types of emissions units as described in paragraphs (b)(20)(i) and (ii).

(i) A new emissions unit is any emissions unit that is (or will be) newly constructed and that has existed for less than 2 years from the date such emissions unit first operated.

(ii) An existing emissions unit is any emissions unit that does not meet the requirements in paragraph (b)(20)(i). A replacement unit, as defined in paragraph (b)(45), is an existing emissions unit.

(21) **"Federal Land Manager"** means, with respect to any lands in the United States, the Secretary of the department with authority over such lands.

(22) **"Federally enforceable"** means all limitations and conditions which are enforceable by the Administrator, including those requirements developed pursuant to 40 CFR 60 and 61, requirements within any applicable State implementation plan, any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51, subpart I, including operating permits issued under an EPA-approved program that is incorporated into the State implementation plan and expressly requires adherence to any permit issued under such program.

(23) **"Fugitive emissions"** means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(24) **"High terrain"** means any area having an elevation 900 feet or more above the base of the stack of a source.

(25) **"Indian Governing Body"** means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self government.

(26) **"Indian Reservation"** means any federally recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.

(27) **"Innovative control technology"** means any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or nonair quality environmental impacts.

(28) **"Low terrain"** means any area other than high terrain.

(29) **"Lowest achievable emission rate (LAER)"** is as defined in paragraph (c)(5) of Regulation 61-62.5 Standard 7.1, "*Nonattainment New Source Review.*"

(30)(i) **"Major modification"** means any physical change in or change in the method of operation of a major stationary source that would result in: a significant emissions increase (as defined in paragraph (b)(50)) of a regulated NSR pollutant (as defined in paragraph (b)(44)); and a significant net emissions increase of that pollutant from the major stationary source.

(ii) Any significant emissions increase (as defined in paragraph (b)(50)) from any emissions units or net

emissions increase (as defined in paragraph (b)(34)) at a major stationary source that is significant for volatile organic compounds or oxides of nitrogen shall be considered significant for ozone.

(iii) A physical change or change in the method of operation shall not include:

(a) Routine maintenance, repair and replacement;

(b) Use of an alternative fuel or raw material by reason of an order under sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(c) Use of an alternative fuel by reason of an order or rule under section 125 of the Clean Air Act;

(d) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(e) Use of an alternative fuel or raw material by a stationary source which:

(1) The source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975 pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR subpart I or 40 CFR 51.166; or

(2) The source is approved to use under any permit issued under 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51.166;

(f) An increase in the hours of operation or in the production rate, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975, pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR subpart I or 40 CFR 51.166.

(g) Any change in ownership at a stationary source.

(h) The addition, replacement, or use of a PCP, as defined in paragraph (b)(35), at an existing emissions unit meeting the requirements of paragraph (z). A replacement control technology must provide more effective emission control than that of the replaced control technology to qualify for this exclusion.

(i) The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:

(1) The State implementation plan for the State in which the project is located, and

(2) Other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

(j) The installation or operation of a permanent clean coal technology demonstration project that constitutes repowering, provided that the project does not result in an increase in the potential to emit of any regulated pollutant emitted by the unit. This exemption shall apply on a pollutant-by-pollutant basis.

(k) The reactivation of a very clean coal-fired electric utility steam generating unit.

(iv) This definition shall not apply with respect to a particular regulated NSR pollutant when the major

stationary source is complying with the requirements under paragraph (aa) for a PAL for that pollutant. Instead, the definition at paragraph (aa)(2)(viii) shall apply.

(31)(i) **"Major source baseline date"** means:

(a) In the case of particulate matter and sulfur dioxide, January 6, 1975, and

(b) In the case of nitrogen dioxide, February 8, 1988.

(ii) **"Minor source baseline date"** means the earliest date after the trigger date on which a major stationary source or a major modification subject to 40 CFR 52.21 or to regulations approved pursuant to 40 CFR 51.166 submits a complete application under the relevant regulations. The trigger date is:

(a) In the case of particulate matter and sulfur dioxide, August 7, 1977, and

(b) In the case of nitrogen dioxide, February 8, 1988.

(iii) The baseline date is established for each pollutant for which increments or other equivalent measures have been established if:

(a) The area in which the proposed source or modification would construct is designated as attainment or unclassifiable under section 107(d)(i)(D) or (E) of the Federal Clean Air Act for the pollutant on the date of its complete application under 40 CFR 52.21; and

(b) In the case of a major stationary source, the pollutant would be emitted in significant amounts, or, in the case of a major modification, there would be a significant net emissions increase of the pollutant.

(iv) Any minor source baseline date established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM_{10} increments, except that the Department shall rescind a minor source baseline date where it can be shown, to the satisfaction of the Department, that the emissions increase from the major stationary source, or net emissions increase from the major modification, responsible for triggering that date did not result in a significant amount of PM_{10} emissions.

(32)(i) **"Major stationary source"** means:

(a) Any of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any regulated NSR pollutant: Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, portland cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants, primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants, fossil fuel boilers (or combinations thereof) totaling more than 250 million British thermal units per hour heat input, petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels, taconite ore processing plants, glass fiber processing plants, and charcoal production plants;

(b) Notwithstanding the stationary source size specified in paragraph (b)(32)(i), any stationary source which emits, or has the potential to emit, 250 tons per year or more of a regulated NSR pollutant; or

(c) Any physical change that would occur at a stationary source not otherwise qualifying under paragraph (b)(32), as a major stationary source, if the changes would constitute a major stationary source by itself.

(ii) A major stationary source that is major for volatile organic compounds or oxides of nitrogen shall be considered major for ozone.

(iii) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this regulation whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

(a) Coal cleaning plants (with thermal dryers);

(b) Kraft pulp mills;

(c) Portland cement plants;

(d) Primary zinc smelters;

(e) Iron and steel mills;

(f) Primary aluminum ore reduction plants;

(g) Primary copper smelters;

(h) Municipal incinerators capable of charging more than 250 tons of refuse per day;

(i) Hydrofluoric, sulfuric, or nitric acid plants;

(j) Petroleum refineries;

(k) Lime plants;

(l) Phosphate rock processing plants;

(m) Coke oven batteries;

(n) Sulfur recovery plants;

(o) Carbon black plants (furnace process);

(p) Primary lead smelters;

(q) Fuel conversion plants;

(r) Sintering plants;

(s) Secondary metal production plants;

(t) Chemical process plants;

(u) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;

(v) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(w) Taconite ore processing plants;

(x) Glass fiber processing plants;

(y) Charcoal production plants;

(z) Fossil fuel-fired steam electric plants of more that 250 million British thermal units per hour heat input, and

(aa) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Federal Clean Air Act.

(33) **"Necessary preconstruction approvals or permits"** means those permits or approvals required under federal air quality control laws and regulations and those air quality control laws and regulations which are part of the applicable State Implementation Plan.

(34)(i) **"Net emissions increase"** means, with respect to any regulated NSR pollutant emitted by a major stationary source, the amount by which the sum of the following exceeds zero:

(a) The increase in emissions from a particular physical change or change in method of operation at a stationary source as calculated pursuant to paragraph (a)(2)(iv); and

(b) Any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable. Baseline actual emissions for calculating increases and decreases under this paragraph (b)(34)(i)(b) shall be determined as provided in paragraph (b)(4), except that paragraphs (b)(4)(i)(c) and (b)(4)(ii)(d) shall not apply.

(ii) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between:

(a) The date five years before construction on the particular change commences; and

(b) The date that the increase from the particular change occurs.

(iii) An increase or decrease in actual emissions is creditable only if:

(a) The Department has not relied on it in issuing a permit for the source under this section, which permit is in effect when the increase in actual emissions from the particular change occurs; and

(b) The increase or decrease in emissions did not occur at a Clean Unit except as provided in paragraphs (x)(8) and (y)(10) and;

(c) It occurs within five years before the date that the increase from the particular change occurs.

(iv) An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or nitrogen oxide, that occurs before the applicable minor source baseline date is creditable only if it is required to be considered

in calculating the amount of maximum allowable increases remaining available

(v) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(vi) A decrease in actual emissions is creditable only to the extent that:

(a) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(b) It is federally enforceable at and after the time that actual construction on the particular change begins; and

(c) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change; and

(d) The decrease in actual emissions did not result from the installation of add-on control technology or application of pollution prevention practices that were relied on in designating an emissions unit as a Clean Unit under paragraph (y) or under regulations approved pursuant to 40 CFR 51.165 or to 40 CFR 51.166 (u). That is, once an emissions unit has been designated as a Clean Unit, the owner or operator cannot later use the emissions reduction from the air pollution control measures that the designation is based on in calculating the net emissions increase for another emissions unit (*i.e.*, must not use that reduction in a "netting analysis" for another emissions unit). However, any new emission reductions that were not relied upon in a PCP excluded pursuant to paragraph (z) or for a Clean Unit designation are creditable to the extent they meet the requirements in paragraph (z)(6)(iv) for the PCP and paragraphs (x)(8) or (y)(10) for a Clean Unit.

(vii) [Reserved]

(viii) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

(ix) Paragraph (b)(1)(ii) shall not apply for determining creditable increases and decreases.

(35) **"Pollution control project** (PCP)" means any activity, set of work practices or project (including pollution prevention as defined under paragraph (b)(36)) undertaken at an existing emissions unit that reduces emissions of air pollutants from such unit. Such qualifying activities or projects can include the replacement or upgrade of an existing emissions control technology with a more effective unit. Other changes that may occur at the source are not considered part of the PCP if they are not necessary to reduce emissions though the PCP. Projects listed in paragraphs (b)(35)(i) through (vi) are presumed to be environmentally beneficial pursuant to paragraph (z)(4)(i). Projects not listed in these paragraphs may qualify for a case-specific PCP exclusion pursuant to the requirements of paragraphs (z)(3) and (z)(4).

(i) Conventional or advanced flue gas desulfurization or sorbent injection for control of SO_2.

(ii) Electrostatic precipitators, baghouses, high efficiency multiclones, or scrubbers for control of particulate matter or other pollutants.

(iii) Flue gas recirculation, low-NO_x burners or combustors, selective non-catalytic reduction, selective

catalytic reduction, low emission combustion (for IC engines), and oxidation/absorption catalyst for control of NO_x.

(iv) Regenerative thermal oxidizers, catalytic oxidizers, condensers, thermal incinerators, hydrocarbon combustion flares, biofiltration, absorbers and adsorbers, and floating roofs for storage vessels for control of volatile organic compounds or hazardous air pollutants. For the purpose of this regulation, "hydrocarbon combustion flare" means either a flare used to comply with an applicable NSPS or MACT standard (including uses of flares during startup, shutdown, or malfunction permitted under such a standard), or a flare that serves to control emissions of waste streams comprised predominately of hydrocarbons and containing no more than 230 mg/dscm hydrogen sulfide.

(v) Activities or projects undertaken to accommodate switching (or partially switching) to an inherently less polluting fuel, to be limited to the following fuel switches:

(a) Switching from a heavier grade of fuel oil to a lighter fuel oil, or any grade of oil to 0.05 percent sulfur diesel (*i.e.*, from a higher sulfur content #2 fuel or from #6 fuel, to CA 0.05 percent sulfur #2 diesel);

(b) Switching from coal, oil, or any solid fuel to natural gas, propane, or gasified coal;

(c) Switching from coal to wood, excluding construction or demolition waste, chemical or pesticide treated wood, and other forms of "unclean" wood;

(d) Switching from coal to #2 fuel oil (0.5 percent maximum sulfur content); and

(e) Switching from high sulfur coal to low sulfur coal (maximum 1.2 percent sulfur content).

(vi) Activities or projects undertaken to accommodate switching from the use of one ozone depleting substance (ODS) to the use of a substance with a lower or zero ozone depletion potential (ODP.) including changes to equipment needed to accommodate the activity or project, that meet the requirements of paragraphs (b)(35)(vi)(a) and (b).

(a) The productive capacity of the equipment is not increased as a result of the activity or project.

(b) The projected usage of the new substance is lower, on an ODP- weighted basis, than the baseline usage of the replaced ODS. To make this determination, follow the procedure in paragraphs (b)(35)(vi)(b)(1) through (4).

(1) Determine the ODP of the substances by consulting 40 CFR 82, subpart A, appendices A and B.

(2) Calculate the replaced ODP-weighted amount by multiplying the baseline actual usage (using the annualized average of any 24 consecutive months of usage within the past 10 years) by the ODP of the replaced ODS.

(3) Calculate the projected ODP-weighted amount by multiplying the project annual usage of the new substance by its ODP.

(4) If the value calculated in paragraph (b)(35)(vi)(b)(2) is more than the value calculated in paragraph (b)(35)(vi)(b)(3), then the projected use of the new substance is lower, on an ODP-weighted basis, than the baseline usage of the replaced ODS.

(36) **"Pollution prevention"** means any activity that through process changes, product reformulation or redesign, or substitution of less polluting raw materials, eliminates or reduces the release of air pollutants (including fugitive emissions) and other pollutants to the environment prior to recycling, treatment, or disposal; it does not mean recycling (other than certain "in-process recycling" practices), energy recovery, treatment, or disposal.

(37) **"Potential to emit"** means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

(38) **"Predictive emissions monitoring system (PEMS)"** means all of the equipment necessary to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O_2 or CO_2 concentrations), and calculate and record the mass emissions rate (for example, lb/hr) on a continuous basis.

(39) **"Prevention of Significant Deterioration (PSD) program"** means the EPA-implemented major source preconstruction permit programs or a major source preconstruction permit program that has been approved by the Administrator and incorporated into the State Implementation Plan pursuant to 40 CFR 51.166 to implement the requirements of that section. Any permit issued under such a program is a major NSR permit.

(40) **"Project"** means a physical change in, or change in the method of operation of, an existing major stationary source.

(41)(i) **"Projected actual emissions"** means the maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated NSR pollutant in any one of the 5 years (12-month period) following the date the unit resumes regular operation after the project, or in any one of the 10 years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit that regulated NSR pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at the major stationary source.

(ii) In determining the projected actual emissions under paragraph (b)(41)(i) (before beginning actual construction), the owner or operator of the major stationary source:

(a) Shall consider all relevant information, including but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with the State or Federal regulatory authorities, and compliance plans under the approved State Implementation Plan; and

(b) Shall include fugitive emissions to the extent quantifiable and emissions associated with startups and shutdowns; and

(c) Shall exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions under paragraph (b)(4) and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or

(d) In lieu of using the method set out in paragraph (a)(41)(ii)(a) through (c), may elect to use the emissions unit's potential to emit, in tons per year, as defined under paragraph (b)(37).

(42) **"Reactivation of a very clean coal-fired electric utility steam generating unit"** means any physical change or change in the method of operation associated with the commencement of commercial operations by a coal-fired utility unit after a period of discontinued operation where the unit:

(i) Has not been in operation for the two-year period prior to the enactment of the Clean Air Act Amendments of 1990, and the emissions from such unit continue to be carried in the permitting authority's emissions inventory at the time of enactment;

(ii) Was equipped prior to shut-down with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than 85 percent and a removal efficiency for particulates of no less than 98 percent;

(iii) Is equipped with low-NOx burners prior to the time of commencement of operations following reactivation; and

(iv) Is otherwise in compliance with the requirements of the Clean Air Act.

(43) **"Reasonably available control technology (RACT)"** is as defined in 40 CFR 51.100(o).

(44) **"Regulated NSR pollutant,"** for purposes of this regulation, means the following:

(i) Any pollutant for which a national ambient air quality standard has been promulgated and any constituents or precursors for such pollutants identified by the Administrator (*e.g.*, volatile organic compounds are precursors for ozone);

(ii) Any pollutant that is subject to any standard promulgated under section 111 of the Clean Air Act;

(iii) Any Class I or II substance subject to a standard promulgated under or established by title VI of the Clean Air Act; or

(iv) Any pollutant that otherwise is subject to regulation under the Clean Air Act; except that any or all hazardous air pollutants either listed in section 112 of the Clean Air Act or added to the list pursuant to section 112(b)(2) of the Clean Air Act, which have not been delisted pursuant to section 112(b)(3) of the Clean Air Act, are not regulated NSR pollutants unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a general pollutant listed under section 108 of the Clean Air Act.

(45) **"Replacement unit"** means an emissions unit for which all the criteria listed in paragraphs (b)(45)(i) through (iv) are met. No credible emission reductions shall be generated from shutting down the existing emissions unit that is replaced.

(i)The emissions unit is a reconstructed unit within the meaning of 40 CFR 60.15(b)(1), or the emissions unit completely takes the place of an existing emissions unit.

(ii) The emissions unit is identical to or functionally equivalent to the replaced emissions unit.

(iii) The replacement does not alter the basic design parameters of the process unit.

(iv) The replaced emissions unit is permanently removed from the major stationary source, otherwise

permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit.

(46)(i) **"Repowering"** means replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or as determined by the Administrator, in consultation with the Secretary of Energy, a derivative of one or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.

(ii) Repowering shall also include any oil and/or gas-fired unit which has been awarded clean coal technology demonstration funding as of January 1, 1991, by the Department of Energy.

(iii) The Department shall give expedited consideration to permit applications for any source that satisfies the requirements of this subsection and is granted an extension under section 409 of the Clean Air Act.

(47) **Reserved**

(48) **"Secondary emissions"** means emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purposes of this section, secondary emissions must be specific, well defined, quantifiable, and impact the same general areas the stationary source modification which causes secondary emissions. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, from a vessel; or from the following:

(i) Emissions from ships or trains coming to or from the new or modified stationary source; and

(ii) Emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification.

(49)(i) **"Significant"** means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant and Emissions Rate

Carbon monoxide: 100 tons per year (tpy)

Nitrogen oxides: 40 tpy

Sulfur dioxide: 40 tpy

Particulate matter:
25 tpy of particulate matter emissions;
15 tpy of PM_{10} emissions

Ozone: 40 tpy of volatile organic compounds or oxides of nitrogen

Lead: 0.6 tpy

Fluorides: 3 tpy

Sulfuric acid mist: 7 tpy

Hydrogen sulfide (H_2S): 10 tpy

Total reduced sulfur (including H_2S): 10 tpy

Reduced sulfur compounds (including H_2S): 10 tpy

Municipal waste combustor organics (measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans): 3.2×10^{-6} megagrams per year (3.5×10^{-6} tons per year).

Municipal waste combustor metals (measured as particulate matter): 14 megagrams per year (15 tons per year)

Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride): 36 megagrams per year (40 tons per year)

Municipal solid waste landfills emissions (measured as nonmethane organic compounds): 45 megagrams per year (50 tons per year)

(ii) **"Significant"** means, in reference to a net emissions increase or the potential of a source to emit a regulated NSR pollutant that paragraph (b)(49)(i), does not list, any emissions rate.

(iii) Notwithstanding paragraph (b)(49)(i), significant means any emissions rate or any net emissions increase associated with a major stationary source or major modification, which would construct within 10 kilometers of a Class I area, and have an impact on such area equal to or greater than 1 $\mu g/m^3$, (24-hour average).

(50) "**Significant emissions increase"** means, for a regulated NSR pollutant, an increase in emissions that is significant (as defined in paragraph (b)(49)) for that pollutant.

(51) **"Stationary source"** means any building, structure, facility, or installation which emits or may emit a regulated NSR pollutant.

(52) **"Temporary clean coal technology demonstration project"** means a clean coal technology demonstration project that is operated for a period of 5 years or less, and which complies with the State implementation plans for the State in which the project is located and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

(53) **"Volatile organic compounds (VOC)"** is as defined in Regulation 61-62.1, Section I, *Definitions*.

(c) Ambient air increments.

In areas designated as Class I, II or III, increases in pollutant concentration over the baseline concentration shall be limited to the following:

CLASS I		
Pollutant		Maximum Allowable Increase (micrograms per cubic meter)
Particulate matter:	PM_{10}, annual arithmetic mean	4
	PM_{10}, 24-hr maximum	8
Sulfur dioxide:	annual arithmetic mean	2
	24-hr maximum	5
	3-hr maximum	25
Nitrogen dioxide:	annual arithmetic mean	2.5

CLASS II		
Pollutant		Maximum Allowable Increase (micrograms per cubic meter)
Particulate matter:	PM_{10}, annual arithmetic mean	17
	PM_{10}, 24-hr maximum	30
Sulfur dioxide:	annual arithmetic mean	20
	24-hr maximum	91
	3-hr maximum	512
Nitrogen dioxide:	annual arithmetic mean	25

CLASS III		
Pollutant		Maximum Allowable Increase (micrograms per cubic meter)
Particulate matter:	PM_{10}, annual arithmetic mean	34
	PM_{10}, 24-hr maximum	60
Sulfur dioxide:	annual arithmetic mean	40
	24-hr maximum	182
	3-hr maximum	700
Nitrogen dioxide:	annual arithmetic mean	50

For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one such period per year at any one location.

(d) Ambient air ceilings.

No concentration of a pollutant shall exceed:

(1) The concentration permitted under the national secondary ambient air quality standard, or

(2) The concentration permitted under the national primary ambient air quality standard, whichever concentration is lowest for the pollutant for a period of exposure.

(e) Restrictions on area classifications.

(1) All of the following areas which were in existence on August 7, 1977, shall be Class I areas and may not be redesignated:

(i) International parks,

(ii) National wilderness areas which exceed 5,000 acres in size,

(iii) National memorial parks which exceed 5,000 acres in size, and

(iv) National parks which exceed 6,000 acres in size.

(2) Areas which were redesignated as Class I under regulations promulgated before August 7, 1977, shall remain Class I, but may be redesignated as provided in this section.

(3) Any other area, unless otherwise specified in the legislation creating such an area, is initially designated Class II, but may be redesignated as provided in this section.

(4) The following areas may be redesignated only as Class I or II:

(i) An area which as of August 7, 1977, exceeded 10,000 acres in size and was a national monument, a national primitive area, a national preserve, a national recreational area, a national wild and scenic river, a national wildlife refuge, a national lakeshore or seashore; and

(ii) A national park or national wilderness area established after August 7, 1977, which exceeds 10,000 acres in size.

(f) [Reserved]

(g) Redesignation.

(1) All areas (except as otherwise provided under paragraph (e)) are designated Class II as of December 5, 1974. Redesignation (except as otherwise precluded by paragraph (e)) may be proposed by the respective States or Indian Governing Bodies, as provided below, subject to approval by the Administrator as a revision to the applicable State implementation plan.

(2) The State may submit to the Administrator a proposal to redesignate areas of the State Class I or Class II provided that:

(i) At least one public hearing has been held in accordance with procedures established in 40 CFR 51.102;

(ii) Other States, Indian Governing Bodies, and Federal Land Managers whose lands may be affected by the proposed redesignation were notified at least 30 days prior to the public hearing;

(iii) A discussion of the reasons for the proposed redesignation, including a satisfactory description and analysis of the health, environmental, economic, social and energy effects of the proposed redesignation, was prepared and made available for public inspection at least 30 days prior to the hearing and the notice announcing the hearing contained appropriate notification of the availability of such discussion;

(iv) Prior to the issuance of notice respecting the redesignation of an area that includes any Federal lands, the State has provided written notice to the appropriate Federal Land Manager and afforded adequate opportunity (not in excess of 60 days) to confer with the State respecting the redesignation and to submit written comments and recommendations. In redesignating any area with respect to which any Federal Land

Manager had submitted written comments and recommendations, the State shall have published a list of any inconsistency between such redesignation and such comments and recommendations (together with the reasons for making such redesignation against the recommendation of the Federal Land Manager); and

(v) The State has proposed the redesignation after consultation with the elected leadership of local and other substate general purpose governments in the area covered by the proposed redesignation.

(3) Any area other than an area to which paragraph (e) refers may be redesignated as Class III if –

(i) The redesignation would meet the requirements of paragraph (g)(2);

(ii) The redesignation, except any established by an Indian Governing Body, has been specifically approved by the Governor of the State, after consultation with the appropriate committees of the legislature, if it is in session, or with the leadership of the legislature, if it is not in session (unless State law provides that the redesignation must be specifically approved by State legislation) and if general purpose units of local government representing a majority of the residents of the area to be redesignated enact legislation or pass resolutions concurring in the redesignation:

(iii) The redesignation would not cause, or contribute to, a concentration of any air pollutant which would exceed any maximum allowable increase permitted under the classification of any other area or any national ambient air quality standard; and

(iv) Any permit application for any major stationary source or major modification, subject to review under paragraph (l), which could receive a permit under this section only if the area in question were redesignated as Class III, and any material submitted as part of that application, were available insofar as was practicable for public inspection prior to any public hearing on redesignation of the area as Class III.

(4) Lands within the exterior boundaries of Indian Reservations may be redesignated only by the appropriate Indian Governing Body. The appropriate Indian Governing Body may submit to the Department a proposal to redesignate areas Class I, Class II, or Class III: Provided, That:

(i) The Indian Governing Body has followed procedures equivalent to those required of a State under paragraphs (g)(2), (g)(3)(iii), and (g)(3)(iv); and

(ii) Such redesignation is proposed after consultation with the State(s) in which the Indian Reservation is located and which border the Indian Reservation.

(5) The Administrator shall disapprove, within 90 days of submission, a proposed redesignation of any area only if it is found, after notice and opportunity for public hearing, that such redesignation does not meet the procedural requirements of this paragraph or is inconsistent with paragraph (e). If any such disapproval occurs, the classification of the area shall be that which was in effect prior to the redesignation which was disapproved.

(6) If the Administrator disapproves any proposed redesignation, the State or Indian Governing Body, as appropriate, may resubmit the proposal after correcting the deficiencies noted by the Administrator.

(h) Stack heights.

(1) The degree of emission limitation required for control of any air pollutant under this section shall not be affected in any manner by--

(i) So much of the stack height of any source as exceeds good engineering practice, or

(ii) Any other dispersion technique.

(2) Paragraph (h)(1) shall not apply with respect to stack heights in existence before December 31, 1970, or to dispersion techniques implemented before then.

(i) Exemptions

(1) The requirements of paragraphs (j) through (r) shall not apply to a particular major stationary source or major modification, if:

(i) Construction commenced on the source or modification before August 7, 1977. The regulations at 40 CFR 52.21 as in effect before August 7, 1977, shall govern the review and permitting of any such source or modification; or

(ii) The source or modification was subject to the review requirements of 40 CFR 52.21(d)(1) as in effect before March 1, 1978, and the owner or operator:

(a) Obtained under 40 CFR 52.21 a final approval effective before March 1, 1978;

(b) Commenced construction before March 19, 1979; and

(c) Did not discontinue construction for a period of 18 months or more and completed construction within a reasonable time; or

(iii) The source or modification was subject to 40 CFR 52.21 as in effect before March 1, 1978, and the review of an application for approval for the stationary source or modification under 40 CFR 52.21 would have been completed by March 1, 1978, but for an extension of the public comment period pursuant to a request for such an extension. In such case, the application shall continue to be processed, and granted or denied, under 40 CFR 52.21 as in effect prior to March 1, 1978; or

(iv) The source or modification was not subject to 40 CFR 52.21 as in effect before March 1, 1978, and the owner or operator:

(a) Obtained all final Federal, state and local preconstruction approvals or permits necessary under the applicable State Implementation Plan before March 1, 1978;

(b) Commenced construction before March 19, 1979; and

(c) Did not discontinue construction for a period of 18 months or more and completed construction within a reasonable time; or

(v) The source or modification was not subject to 40 CFR 52.21 as in effect on June 19, 1978 or under the partial stay of regulations published on February 5, 1980 (45 FR 7800), and the owner or operator:

(a) Obtained all final Federal, state and local preconstruction approvals or permits necessary under the applicable State Implementation Plan before August 7, 1980;

(b) Commenced construction within 18 months from August 7, 1980, or any earlier time required under the applicable State Implementation Plan; and

(c) Did not discontinue construction for a period of 18 months or more and completed construction within a reasonable time; or

(vi) The source or modification would be a nonprofit health or nonprofit educational institution, or a major modification would occur at such an institution, and the governor of the state in which the source or modification would be located requests that it be exempt from those requirements; or

(vii) The source or modification would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification and the source does not belong to any of the following categories:

(a) Coal cleaning plants (with thermal dryers);

(b) Kraft pulp mills;

(c) Portland cement plants;

(d) Primary zinc smelters;

(e) Iron and steel mills;

(f) Primary aluminum ore reduction plants;

(g) Primary copper smelters;

(h) Municipal incinerators capable of charging more than 250 tons of refuse per day;

(i) Hydrofluoric, sulfuric, or nitric acid plants;

(j) Petroleum refineries;

(k) Lime plants;

(l) Phosphate rock processing plants;

(m) Coke oven batteries;

(n) Sulfur recovery plants;

(o) Carbon black plants (furnace process);

(p) Primary lead smelters;

(q) Fuel conversion plants;

(r) Sintering plants;

(s) Secondary metal production plants;

(t) Chemical process plants;

(u) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;

(v) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(w) Taconite ore processing plants;

(x) Glass fiber processing plants;

(y) Charcoal production plants;

(z) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;

(aa) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Clean Air Act; or

(viii) The source is a portable stationary source which has previously received a permit under this section, and

(a) The owner or operator proposes to relocate the source and emissions of the source at the new location would be temporary; and

(b) The emissions from the source would not exceed its allowable emissions; and

(c) The emissions from the source would impact no Class I area and no area where an applicable increment is known to be violated; and

(d) Reasonable notice is given to the Department prior to the relocation identifying the proposed new location and the probable duration of operation at the new location. Such notice shall be given to the Department not less than 10 days in advance of the proposed relocation unless a different time duration is previously approved by the Department.

(ix) The source or modification was not subject to section 52.21 with respect to particulate matter, as in effect before July 31, 1987, and the owner or operator:

(a) Obtained all final Federal, State, and local preconstruction approvals or permits necessary under the applicable State implementation plan before July 31, 1987;

(b) Commenced construction within 18 months after July 31, 1987, or any earlier time required under the State implementation plan; and

(c) Did not discontinue construction for a period of 18 months or more and completed construction within a reasonable period of time.

(x) The source or modification was subject to 40 CFR 52.21, with respect to particulate matter, as in effect before July 31, 1987 and the owner or operator submitted an application for a permit under this section before that date, and the Department subsequently determines that the application as submitted was complete with respect to the particulate matter requirements then in effect in this section. Instead, the requirements of paragraphs (j) through (r) that were in effect before July 31, 1987 shall apply to such source or modification.

(2) The requirements of paragraphs (j) through (r) shall not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that, as to that pollutant, the source or modification is located in an area designated as nonattainment under section 107 of the Clean Air Act.

(3) The requirements of paragraphs (k), (m) and (o) shall not apply to a major stationary source or major modification with respect to a particular pollutant, if the allowable emissions of that pollutant from the source, or the net emissions increase of that pollutant from the modification:

(i) Would impact no Class I area and no area where an applicable increment is known to be violated, and

(ii) Would be temporary.

(4) The requirements of paragraphs (k), (m) and (o) as they relate to any maximum allowable increase for a Class II area shall not apply to a major modification at a stationary source that was in existence on March 1, 1978, if the net increase in allowable emissions of each regulated NSR pollutant from the modification after the application of best available control technology would be less than 50 tons per year.

(5) The Department may exempt a stationary source or modification from the requirements of paragraph (m), with respect to monitoring for a particular pollutant if:

(i) The emissions increase of the pollutant from the new source or the net emissions increase of the pollutant from the modification would cause, in any area, air quality impacts less than the following amounts:

Carbon monoxide--575 $\mu g/m^3$, 8-hour average;
Nitrogen dioxide--14 $\mu g/m^3$, annual average;
Particulate matter--10 $\mu g/m^3$ of PM_{10}, 24-hour average;
Sulfur dioxide--13 $\mu g/m^3$, 24-hour average;
Ozone;[1]
Lead--0.1 $\mu g/m^3$, 3-month average;
Fluorides--0.25 $\mu g/m^3$, 24-hour average;
Total reduced sulfur--10 $\mu g/m^3$, 1-hour average;
Hydrogen sulfide--0.2 $\mu g/m^3$, 1-hour average;
Reduced sulfur compounds--10 $\mu g/m^3$, 1-hour average; or

[1] No de minimis air quality level is provided for ozone. However, any net increase of 100 tons per year or more of volatile organic compounds subject to PSD would be required to perform an ambient impact analysis including the gathering of ambient air quality data.

(ii) The concentrations of the pollutant in the area that the source or modification would affect are less than the concentrations listed in paragraph (i)(8)(i), or the pollutant is not listed in paragraph (i)(8)(i).

(6) The requirements for best available control technology in paragraph (j) and the requirements for air quality analyses in paragraph (m)(1), shall not apply to a particular stationary source or modification that was subject to 40 CFR 52.21 as in effect on June 19, 1978, if the owner or operator of the source or modification submitted an application for a permit under those regulations before August 7, 1980, and the Department subsequently determines that the application as submitted before that date was complete. Instead, the requirements at 40 CFR 52.21(j) and (n) as in effect on June 19, 1978 apply to any such source or modification.

(7)(i) The requirements for air quality monitoring in paragraphs (m)(1)(ii) through (iv) shall not apply to a particular source or modification that was subject to 40 CFR 52.21 as in effect on June 19, 1978, if the owner or operator of the source or modification submits an application for a permit under this section on or before June 8, 1981, and the Department subsequently determines that the application as submitted before that date was complete with respect to the requirements of this regulation other than those in paragraphs (m)(1)(ii) through (iv), and with respect to the requirements for such analyses at 40 CFR 52.21(m)(2) as in effect on June 19, 1978. Instead, the latter requirements shall apply to any such source or modification.

(ii) The requirements for air quality monitoring in paragraphs (m)(1)(ii) through (iv) shall not apply to a particular source or modification that was not subject to 40 CFR 52.21 as in effect on June 19, 1978, if the owner or operator of the source or modification submits an application for a permit under this section on or before June 8, 1981, and the Department subsequently determines that the application as submitted before that date was complete, except with respect to the requirements in paragraphs (m)(1)(ii) through (iv).

(8)(i) At the discretion of the Department, the requirements for air quality monitoring of PM_{10} in paragraphs (m)(1)(i)--(iv) may not apply to a particular source or modification when the owner or operator of the source or modification submits an application for a permit under this section on or before June 1, 1988 and the Department subsequently determines that the application as submitted before that date was complete, except with respect to the requirements for monitoring particulate matter in paragraphs (m)(1)(i) through (iv).

(ii) The requirements for air quality monitoring of PM_{10} in paragraphs (m)(1), (ii) and (iv) and (m)(3) shall apply to a particular source or modification if the owner or operator of the source or modification submits an application for a permit under this section after June 1, 1988 and no later than December 1, 1988. The data shall have been gathered over at least the period from February 1, 1988 to the date the application becomes otherwise complete in accordance with the provisions set forth under paragraph (m)(1)(viii), except that if the Department determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than 4 months), the data that paragraph (m)(1)(iii) requires shall have been gathered over a shorter period.

(9) The requirements of paragraph (k)(2) shall not apply to a stationary source or modification with respect to any maximum allowable increase for nitrogen oxides if the owner or operator of the source or modification submitted an application for a permit under this section before the provisions embodying the maximum allowable increase took effect as part of the applicable implementation plan and the Department subsequently determined that the application as submitted before that date was complete.

(10) The requirements in paragraph (k)(2) shall not apply to a stationary source or modification with respect to any maximum allowable increase for PM_{10} if

(i) the owner or operator of the source or modification submitted an application for a permit under this section before the provisions embodying the maximum allowable increases for PM_{10} took effect in an implementation plan to which this section applies, and

(ii) the Department subsequently determined that the application as submitted before that date was otherwise complete. Instead, the requirements in paragraph (k)(2) shall apply with respect to the maximum allowable increases for TSP as in effect on the date the application was submitted.

(j) Control technology review.

(1) A major stationary source or major modification shall meet each applicable emissions limitation under the State Implementation Plan and each applicable emissions standard and standard of performance under 40

CFR 60 and 61.

(2) A new major stationary source shall apply best available control technology for each regulated NSR pollutant that it would have the potential to emit in significant amounts.

(3) A major modification shall apply best available control technology for each regulated NSR pollutant for which it would result in a significant net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change or change in the method of operation in the unit.

(4) For phased construction projects, the determination of best available control technology shall be reviewed and modified as appropriate at the latest reasonable time which occurs no later than 18 months prior to commencement of construction of each independent phase of the project. At such time, the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of best available control technology for the source.

(k) Source impact analysis.

The owner or operator of the proposed source or modification shall demonstrate that allowable emission increases from the proposed source or modification, in conjunction with all other applicable emissions increases or reductions (including secondary emissions), would not cause or contribute to air pollution in violation of:

(1) Any national ambient air quality standard in any air quality control region; or

(2) Any applicable maximum allowable increase over the baseline concentration in any area.

(l) Air Quality Models

(1) All estimates of ambient concentrations required under this paragraph shall be based on applicable air quality models, data bases, and other requirements specified in 40 CFR 51 appendix W (Guideline on Air Quality Models).

(2) Where an air quality model specified in 40 CFR 51 appendix W (Guideline on Air Quality Models) is inappropriate, the model may be modified or another model substituted. Such a modification or substitution of a model may be made on a case-by-case basis or, where appropriate, on a generic basis for a specific state program. Written approval of the Department must be obtained for any modification or substitution. In addition, use of a modified or substituted model must be subject to notice and opportunity for public comment under procedures developed in accordance with paragraph (q).

(m) Air quality analysis--

(1) Preapplication analysis.

(i) Any application for a permit under this section shall contain an analysis of ambient air quality in the area that the major stationary source or major modification would affect for each of the following pollutants:

(a) For the source, each pollutant that it would have the potential to omit in a significant amount;

(b) For the modification, each pollutant for which it would result in a significant net emissions increase.

(ii) With respect to any such pollutant for which no National Ambient Air Quality Standard exists, the analysis shall contain such air quality monitoring data as the Department determines is necessary to assess ambient air quality for that pollutant in any area that the emissions of that pollutant would affect.

(iii) With respect to any such pollutant (other than nonmethane hydrocarbons) for which such a standard does exist, the analysis shall contain continuous air quality monitoring data gathered for purposes of determining whether emissions of that pollutant would cause or contribute to a violation of the standard or any maximum allowable increase.

(iv) In general, the continuous air quality monitoring data that is required shall have been gathered over a period of at least one year and shall represent at least the year preceding receipt of the application, except that, if the Department determines that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one year (but not to be less than four months), the data that is required shall have been gathered over at least that shorter period.

(v) For any application which becomes complete, except as to the requirements of paragraphs (m)(1)(iii) and (iv), between June 8, 1981, and February 9, 1982, the data that paragraph (m)(1)(iii), requires shall have been gathered over at least the period from February 9, 1981, to the date the application becomes otherwise complete, except that:

(a) If the source or modification would have been major for that pollutant under 40 CFR 52.21 as in effect on June 19, 1978, any monitoring data shall have been gathered over at least the period required by those regulations.

(b) If the Department determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than four months), the data that paragraph (m)(1)(iii), requires shall have been gathered over at least that shorter period.

(c) If the monitoring data would relate exclusively to ozone and would not have been required under 40 CFR 52.21 as in effect on June 19, 1978, the Department may waive the otherwise applicable requirements of this paragraph (v) to the extent that the applicant shows that the monitoring data would be unrepresentative of air quality over a full year.

(vi) The owner or operator of a proposed stationary source or modification of volatile organic compounds who satisfies all conditions of 40 CFR 51 Appendix S, section IV may provide post-approval monitoring data for ozone in lieu of providing preconstruction data as required under paragraph (m)(1).

(vii) For any application that becomes complete, except as to the requirements of paragraphs (m)(1)(iii) and (iv) pertaining to PM_{10}, after December 1, 1988 and no later than August 1, 1989 the data that paragraph (m)(1)(iii) requires shall have been gathered over at least the period from August 1, 1988 to the date the application becomes otherwise complete, except that if the Department determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than 4 months), the data that paragraph (m)(1)(iii) requires shall have been gathered over that shorter period.

(viii) With respect to any requirements for air quality monitoring of PM_{10} under paragraphs (i)(11)(i) and (ii) the owner or operator of the source or modification shall use a monitoring method approved by the Department and shall estimate the ambient concentrations of PM_{10} using the data collected by such approved monitoring method in accordance with estimating procedures approved by the Department.

(2) Post-construction monitoring. The owner or operator of a major stationary source or major

modification shall, after construction of the stationary source or modification, conduct such ambient monitoring as the Department determines is necessary to determine the effect emissions from the stationary source or modification may have, or are having, on air quality in any area.

(3) Operations of monitoring stations. The owner or operator of a major stationary source or major modification shall meet the requirements of Appendix B to 40 CFR 58 of during the operation of monitoring stations for purposes of satisfying paragraph (m).

(n) Source information.

The owner or operator of a proposed source or modification shall submit all information necessary to perform any analysis or make any determination required under this section.

(1) With respect to a source or modification to which paragraphs (j), (l), (n) and (p) apply, such information shall include:

(i) A description of the nature, location, design capacity, and typical operating schedule of the source or modification, including specifications and drawings showing its design and plant layout;

(ii) A detailed schedule for construction of the source or modification;

(iii) A detailed description as to what system of continuous emission reduction is planned for the source or modification, emission estimates, and any other information necessary to determine that best available control technology would be applied.

(2) Upon request of the Department, the owner or operator shall also provide information on:

(i) The air quality impact of the source or modification, including meteorological and topographical data necessary to estimate such impact; and

(ii) The air quality impacts, and the nature and extent of any or all general commercial, residential, industrial, and other growth which has occurred since August 7, 1977, in the area the source or modification would affect.

(o) Additional impact analyses.

(1) The owner or operator shall provide an analysis of the impairment to visibility, soils and vegetation that would occur as a result of the source or modification and general commercial, residential, industrial and other growth associated with the source or modification. The owner or operator need not provide an analysis of the impact on vegetation having no significant commercial or recreational value.

(2) The owner or operator shall provide an analysis of the air quality impact projected for the area as a result of general commercial, residential, industrial and other growth associated with the source or modification.

(3) Visibility monitoring. The Department may require monitoring of visibility in any Federal class I area near the proposed new stationary source for major modification for such purposes and by such means as the Administrator deems necessary and appropriate.

(p) Sources impacting Federal Class I areas--additional requirements--

(1) Notice to Federal land managers. The Department shall provide written notice of any permit application for a proposed major stationary source or major modification, the emissions from which may affect a Class I area, to the Federal land manager and the Federal official charged with direct responsibility for management of any lands within any such area. Such notification shall include a copy of all information relevant to the permit application and shall be given within 30 days of receipt and at least 60 days prior to any public hearing on the application for a permit to construct. Such notification shall include an analysis of the proposed source's anticipated impacts on visibility in the Federal Class I area. The Department shall also provide the Federal land manager and such Federal officials with a copy of the preliminary determination required under paragraph (q), and shall make available to them any materials used in making that determination, promptly after the Department makes such determination. Finally, the Department shall also notify all affected Federal land managers within 30 days of receipt of any advance notification of any such permit application.

(2) Federal Land Manager. The Federal Land Manager and the Federal official charged with direct responsibility for management of such lands have an affirmative responsibility to protect the air quality related values (including visibility) of such lands and to consider, in consultation with the Department, whether a proposed source or modification will have an adverse impact on such values.

(3) Visibility analysis. The Department shall consider any analysis performed by the Federal land manager, provided within 30 days of the notification required by paragraph (p)(1), that shows that a proposed new major stationary source or major modification may have an adverse impact on visibility in any Federal Class I area. Where the Department finds that such an analysis does not demonstrate to the satisfaction of the Department that an adverse impact on visibility will result in the Federal Class I area, the Department must, in the notice of public hearing on the permit application, either explain its decision or give notice as to where the explanation can be obtained.

(4) Denial--impact on air quality related values. The Federal Land Manager of any such lands may demonstrate to the Department that the emissions from a proposed source or modification would have an adverse impact on the air quality-related values (including visibility) of those lands, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the Department concurs with such demonstration, then the permit shall not be issued.

(5) Class I variances. The owner or operator of a proposed source or modification may demonstrate to the Federal Land Manager that the emissions from such source or modification would have no adverse impact on the air quality related values of any such lands (including visibility), notwithstanding that the change in air quality resulting from emissions from such source or modification would cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the Federal Land Manager concurs with such demonstration and so certifies, the State may authorize the Administrator: Provided, That the applicable requirements of this regulation are otherwise met, to issue the permit with such emission limitations as may be necessary to assure that emissions of sulfur dioxide and particulate matter, and nitrogen oxides would not exceed the following maximum allowable increases over minor source baseline concentration for such pollutants:

Pollutant		Maximum Allowable Increase (micrograms per cubic meter)
Particulate matter:	PM_{10}, annual arithmetic mean	17
	PM_{10}, 24-hr maximum	30
Sulfur dioxide:	annual arithmetic mean	20
	24-hr maximum	91

Pollutant		Maximum Allowable Increase (micrograms per cubic meter)
	3-hr maximum	325
Nitrogen dioxide:	annual arithmetic mean	25

(6) Sulfur dioxide variance by Governor with Federal Land Manager's concurrence. The owner or operator of a proposed source or modification which cannot be approved under paragraph (q)(4) may demonstrate to the Governor that the source cannot be constructed by reason of any maximum allowable increase for sulfur dioxide for a period of twenty-four hours or less applicable to any Class I area and, in the case of Federal mandatory Class I areas, that a variance under this clause would not adversely affect the air quality related values of the area (including visibility). The Governor, after consideration of the Federal Land Manager's recommendation (if any) and concurrence, may, after notice and public hearing, grant a variance from such maximum allowable increase. If such variance is granted, the Department shall issue a permit to such source or modification pursuant to the requirements of paragraph (q)(7): Provided, that the applicable requirements of this regulation are otherwise met.

(7) Variance by the Governor with the President's concurrence. In any case where the Governor recommends a variance in which the Federal Land Manager does not concur, the recommendations of the Governor and the Federal Land Manager shall be transmitted to the President. The President may approve the Governor's recommendation if it is found that the variance is in the national interest. If the variance is approved, the Department shall issue a permit pursuant to the requirements of paragraph (q)(7): Provided, that the applicable requirements of this regulation are otherwise met.

(8) Emission limitations for Presidential or gubernatorial variance. In the case of a permit issued pursuant to paragraph (q)(5) or (6) the source or modification shall comply with such emission limitations as may be necessary to assure that emissions of sulfur dioxide from the source or modification would not (during any day on which the otherwise applicable maximum allowable increases are exceeded) cause or contribute to concentrations which would exceed the following maximum allowable increases over the baseline concentration and to assure that such emissions would not cause or contribute to concentrations which exceed the otherwise applicable maximum allowable increases for periods of exposure of 24 hours or less for more than 18 days, not necessarily consecutive, during any annual period:

MAXIMUM ALLOWABLE INCREASE (Micrograms per cubic meter)		
Period of exposure	Terrain Areas	
	Low	High
24-hr maximum	36	62
3-hr maximum	130	221

(q) Public participation.

(1) Within 30 days after receipt of an application to construct, or any addition to such application, the Department shall advise the applicant of any deficiency in the application or in the information submitted and transmit a copy of such application to EPA. In the event of such a deficiency, the date of receipt of the application shall be, for the purpose of this regulation, the date on which the Department received all required information.

(2) In accordance with Regulation 61-30, *Environmental Protection Fees*, the Department shall make a final determination on the application. This involves performing the following actions in a timely manner:

(i) Make a preliminary determination whether construction should be approved, approved with conditions, or disapproved.

(ii) Make available in at least one location in each region in which the proposed plant or modification would be constructed a copy of all materials the applicant submitted, a copy of the preliminary determination and a copy or summary of other materials, if any, considered in making the preliminary determination.

(iii) Notify the public, by advertisement in a newspaper of general circulation in each region in which the proposed plant or modification would be constructed, of the application, the preliminary determination, the degree of increment consumption that is expected from the plant or modification, and the opportunity for comment at a public hearing as well as written public comment.

(iv) Send a copy of the notice of public comment to the applicant, the Administrator of EPA, and to officials and agencies having cognizance over the location where the proposed construction would occur as follows: The chief executives of the city and county where the plant or modification would be located, any comprehensive regional land use planning agency and any State, Federal Land Manager, or Indian Governing Body whose lands may be affected by emissions from the plant or modification.

(v) Provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the plant or modification, alternatives to the plant or modification, the control technology required, and other appropriate considerations.

(vi) Consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing(s) in making a final decision on the approvability of the application. No later than 10 days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The Department shall consider the applicant's response in making a final decision. The Department shall make all comments available for public inspection in the same locations where the Department made available preconstruction information relating to the proposed plant or modification.

(vii) Make a final determination whether construction should be approved, approved with conditions, or disapproved pursuant to this section.

(viii) Notify the applicant in writing of the final determination and make such notification available for public inspection at the same location where the Department made available preconstruction information and public comments relating to the plant or modification.

(ix) Notify EPA of every action related to the consideration of the permit.

(3) The requirements of Section (q), Public Participation, of this standard shall not apply to any major plant or major modification which Section (i), Review of Major Stationary Sources and Major Modifications, would exempt from the requirements of Sections (k), (m), and (o), but only to the extent that, with respect to each of the criteria for construction approval under the South Carolina State Implementation Plan and for exemption under Section (i), requirements providing the public with at least as much participation in each material determination as those of Section (q) have been met in the granting of such construction approval.

(r) Source obligation. In addition to all other applicable requirements specified in this regulation, the owner or operator shall comply with the requirements of paragraphs (r)(1) through (r)(8).

(1) Any owner or operator who constructs or operates a source or modification not in accordance with the

application submitted pursuant to this section or with the terms of any approval to construct, or any owner or operator of a source or modification subject to this section who commences construction after the effective date of these regulations without applying for and receiving approval hereunder, shall be subject to appropriate enforcement action.

(2) Approval to construct shall become invalid if construction is not commenced within 18 months after receipt of such approval, if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time. The Department may extend the 18-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within 18 months of the projected and approved commencement date.

(3) Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the State implementation plan and any other requirements under local, State, or Federal law.

(4) At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements or paragraphs (j) through (s) shall apply to the source or modification as though construction had not yet commenced on the source or modification.

(5) Reserved

(6) **Monitoring, recordkeeping and reporting.** The provisions of this paragraph (r)(6) apply to projects at an existing emissions unit at a major stationary source (other than projects at a Clean Unit or at a source with a PAL) in circumstances where there is a reasonable possibility that a project that is not a part of a major modification may result in a significant emissions increase and the owner or operator elects to use the method specified in paragraphs (b)(41)(ii)(a) through (c) for calculating projected actual emissions.

(i) If the project requires construction permitting under Regulation 61-62.1, Section II "Permit Requirements", the owner or operator shall provide a copy of the information set out in paragraph (r)(6)(ii) as part of the permit application to the Department. If construction permitting under Regulation 61-62.1, Section II "Permit Requirements" is not required, the owner or operator shall maintain the information set out in paragraph (r)(6)(ii).

(ii) Before beginning actual construction of the project, the owner or operator shall document and maintain a record of the following information:

(a) A description of the project;

(b) Identification of the emissions unit(s) whose emissions of a regulated NSR pollutant could be affected by the project; and

(c) A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under paragraph (b)(41)(ii)(c) and an explanation for why such amount was excluded, and any netting calculations, if applicable.

(iii) The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions unit identified in paragraph (r)(6)(ii)(b);

and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of 5 years following resumption of regular operations after the change, or for a period of 10 years following resumption of regular operations after the change if the project increases the design capacity of or potential to emit that regulated NSR pollutant at such emissions unit.

(iv) If the unit is an existing electric utility steam generating unit, the owner or operator shall submit a report to the Department within 60 days after the end of each year during which records must be generated under paragraph (r)(6)(iii) setting out the unit's annual emissions during the calendar year that preceded submission of the report.

(v) If the unit is an existing unit other than an electric utility steam generating unit, the owner or operator shall submit a report to the Department if the annual emissions, in tons per year, from the project identified in paragraph (r)(6)(ii), exceed the baseline actual emissions (as documented and maintained pursuant to paragraph (r)(6)(ii)(c)), by a significant amount (as defined in paragraph (b)(49)) for that regulated NSR pollutant, and if such emissions differ from the preconstruction projection as documented and maintained pursuant to paragraph (r)(6)(ii)(c). Such report shall be submitted to the Department within 60 days after the end of such year. The report shall contain the following:

(a) The name, address and telephone number of the major stationary source;

(b) The annual emissions as calculated pursuant to paragraph (r)(6)(iii); and

(c) Any other information needed to make a compliance determination (*e.g.*, an explanation as to why the emissions differ from the preconstruction projection).

(7) If a Clean Unit modification project or a project at a source with a PAL requires construction permitting under Regulation 61-62.1, Section II, "Permit Requirements", the owner or operator shall provide notification of source status as part of the permit application to the Department.

(8) The owner or operator of the source shall make the information required to be documented and maintained pursuant to paragraph (r)(6) available for review upon a request for inspection by the Department or the general public pursuant to the requirements contained in 40 CFR 70.4(b)(3)(viii).

(s) through (u)(3) - Reserved.

(u)(4) In the case of a source or modification which proposes to construct in a class III area, emissions from which would cause or contribute to air quality exceeding the maximum allowable increase applicable if the area were designated a class II area, and where no standard under section 111 of the act has been promulgated for such source category, the Administrator must approve the determination of best available control technology as set forth in the permit.

(v) Innovative control technology.

(1) An owner or operator of a proposed major stationary source or major modification may request the Department in writing no later than the close of the comment period under 40 CFR 124.10 to approve a system of innovative control technology.

(2) The Department shall, with the consent of the governor(s) of the affected state(s), determine that the source or modification may employ a system of innovative control technology, if:--

(i) The proposed control system would not cause or contribute to an unreasonable risk to public health,

welfare, or safety in its operation or function;

(ii) The owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under paragraph (j)(2), by a date specified by the Department. Such date shall not be later than 4 years from the time of startup or 7 years from permit issuance;

(iii) The source or modification would meet the requirements of paragraphs (j) and (k), based on the emissions rate that the stationary source employing the system of innovative control technology would be required to meet on the date specified by the Department;

(iv) The source or modification would not before the date specified by the Department:

(a) Cause or contribute to a violation of an applicable national ambient air quality standard; or

(b) Impact any area where an applicable increment is known to be violated; and

(v) All other applicable requirements including those for public participation have been met.

(vi) The provisions of paragraph (p) (relating to Class I areas) have been satisfied with respect to all periods during the life of the source or modification.

(3) The Department shall withdraw any approval to employ a system of innovative control technology made under this section, if:

(i) The proposed system fails by the specified date to achieve the required continuous emissions reduction rate; or

(ii) The proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare, or safety; or

(iii) The Department decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare, or safety.

(4) If a source or modification fails to meet the required level of continuous emission reduction within the specified time period or the approval is withdrawn in accordance with paragraph (v)(3), the Department may allow the source or modification up to an additional 3 years to meet the requirement for the application of best available control technology through use of a demonstrated system of control.

(w) **Permit rescission**.

(1) Any permit issued under this section or a prior version of this regulation shall remain in effect, unless and until it expires under paragraph (s) or is rescinded.

(2) Any owner or operator of a stationary source or modification who holds a permit for the source or modification which was issued under 40 CFR 52.21 as in effect on July 30, 1987, or any earlier version of this regulation, may request that the Administrator rescind the permit or a particular portion of the permit.

(3) The Department shall grant an application for rescission if the application shows that this section would not apply to the source or modification.

(4) If the Department rescinds a permit under this paragraph, the public shall be given adequate notice of

the rescission. Publication of an announcement of rescission in a newspaper of general circulation in the affected region within 60 days of the rescission shall be considered adequate notice.

(x) **Clean Unit Test for emissions units that are subject to BACT or LAER**. An owner or operator of a major stationary source has the option of using the Clean Unit Test to determine whether emissions increases at a Clean Unit are part of a project that is a major modification according to the provisions in paragraphs (x)(1) through (9).

(1) **Applicability.** The provisions of this paragraph (x) apply to any emissions unit for which the Department has issued a major NSR permit within the last 10 years.

(2) **General provisions for Clean Units.** The provisions in paragraphs (x)(2)(i) through (iv) apply to a Clean Unit.

(i) Any project for which the owner or operator begins actual construction after the effective date of the Clean Unit designation (as determined in accordance with paragraph (x)(4)) and before the expiration date (as determined in accordance with paragraph (x)(5)) will be considered to have occurred while the emissions unit was a Clean Unit.

(ii) If a project at a Clean Unit does not cause the need for a change in the emission limitations or work practice requirements in the permit for the unit that were adopted in conjunction with BACT and the project would not alter any physical or operational characteristics that formed the basis for the BACT determination as specified in paragraph (x)(6)(iv), the emissions unit remains a Clean Unit.

(iii) If a project causes the need for a change in the emission limitations or work practice requirements in the permit for the unit that were adopted in conjunction with BACT or the project would alter any physical or operational characteristics that formed the basis for the BACT determination as specified in paragraph (x)(6)(iv), then the emissions unit loses its designation as a Clean Unit upon issuance of the necessary permit revisions (unless the unit re-qualifies as a Clean Unit pursuant to paragraph (x)(3)(iv)). If the owner or operator begins actual construction on the project without first applying to revise the emissions unit's permit, the Clean Unit designation ends immediately prior to the time when actual construction begins.

(iv) A project that causes an emissions unit to lose its designation as a Clean Unit is subject to the applicability requirements of paragraphs (a)(2)(iv)(a) through (d) and paragraph (a)(2)(iv)(f) as if the emissions unit is not a Clean Unit.

(3) **Qualifying or re-qualifying to use the Clean Unit Applicability Test.** An emissions unit qualifies as a Clean Unit when the unit meets the criteria in paragraphs (x)(3)(i), (ii) and (iii). After the original Clean Unit expires in accordance with paragraph (x)(5) or is lost pursuant to paragraph (x)(2)(iii), such emissions unit may re-qualify as a Clean Unit under either paragraph (x)(3)(iv), or under the Clean Unit provisions in paragraph (y). To re-qualify as a Clean Unit under paragraph (x)(3)(iv), the emissions unit must obtain a new major NSR permit issued through the applicable PSD program and meet all the criteria in paragraph (x)(3)(iv). The Clean Unit designation applies individually for each pollutant emitted by the emissions unit.

(i) **Permitting requirement.** The emissions unit must have received a major NSR permit within the last 10 years. The owner or operator must maintain and be able to provide information that would demonstrate that this permitting requirement is met.

(ii) **Qualifying air pollution control technologies.** Air pollutant emissions from the emissions unit must be reduced through the use of air pollution control technology (which includes pollution prevention as defined under paragraph (b)(36) or work practices) that meets both the following requirements in paragraphs

(x)(3)(ii)(a) and (b).

(a) The control technology achieves the BACT or LAER level of emissions reductions as determined through issuance of a major NSR permit within the past 10 years. However, the emissions unit is not eligible for the Clean Unit designation if the BACT determination resulted in no requirement to reduce emissions below the level of a standard, uncontrolled, new emissions unit of the same type.

(b) The owner or operator made an investment to install the control technology. For the purpose of this determination, an investment includes expenses to research the application of a pollution prevention technique to the emissions unit or expenses to apply a pollution prevention technique to an emissions unit.

(iii) Prior to using the Clean Units test, the facility shall notify the Department with a statement affirming that the conditions set out in paragraph (x)(3)(ii)(a) and (b) have been met in order to qualify as a Clean Unit.

(iv) **Re-qualifying for the Clean Unit designation.** The emissions unit must obtain a new major NSR permit that requires compliance with the current-day BACT (or LAER), and the emissions unit must meet the requirements in paragraphs (x)(3)(i) and (x)(3)(ii).

(4) **Effective date of the Clean Unit designation.** The effective date of an emissions unit's Clean Unit designation (that is, the date on which the owner or operator may begin to use the Clean Unit Test to determine whether a project at the emissions unit is a major modification) is determined according to the applicable paragraph (x)(4)(i) or (x)(4)(ii).

(i) **Original Clean Unit designation, and emissions units that re-qualify as Clean Units by implementing new control technology to meet current-day BACT.** The effective date is the date the emissions unit's air pollution control technology is placed into service, or 3 years after the issuance date of the major NSR permit, whichever is earlier, but no sooner than the date these provisions become effective and approved for incorporation into the SIP.

(ii) **Emissions units that re-qualify for the Clean Unit designation using an existing control technology.** The effective date is the date the new, major NSR permit is issued.

(5) **Clean Unit expiration.** An emissions unit's Clean Unit designation expires (that is, the date on which the owner or operator may no longer use the Clean Unit Test to determine whether a project affecting the emissions unit is, or is part of, a major modification) according to the applicable paragraph (x)(5)(i) or (ii).

(i) **Original Clean Unit designation, and emissions units that re-qualify by implementing new control technology to meet current-day BACT.** For any emissions unit that automatically qualifies as a Clean Unit under paragraphs (x)(3)(i) and (ii) or re-qualifies by implementing new control technology to meet current-day BACT under paragraph (x)(3)(iv), the Clean Unit designation expires 10 years after the effective date, or the date the equipment went into service, whichever is earlier; or, it expires at any time the owner or operator fails to comply with the provisions for maintaining the Clean Unit designation in paragraph (x)(7).

(ii) **Emissions units that re-qualify for the Clean Unit designation using an existing control technology.** For any emissions unit that re-qualifies as a Clean Unit under paragraph (x)(3)(iv) using an existing control technology, the Clean Unit designation expires 10 years after the effective date; or, it expires any time the owner or operator fails to comply with the provisions for maintaining the Clean Unit designation in paragraph (x)(7).

(6) **Required title V permit content for a Clean Unit.** After the effective date of the Clean Unit

designation, and in accordance with the provisions of Regulation 61-62.70, Title V Operating Permit Program, but no later than when the title V permit is renewed, the title V permit for the major stationary source must include the following terms and conditions in paragraphs (x)(6)(i) through (vi) related to the Clean Unit.

(i) A statement indicating that the emissions unit qualifies as a Clean Unit and identifying the pollutant(s) for which this designation applies.

(ii) **The effective date of the Clean Unit designation.** If this date is not known when the Clean Unit designation is initially recorded in the title V permit (*e.g.*, because the air pollution control technology is not yet in service), the permit must describe the event that will determine the effective date (*e.g.*, the date the control technology is placed into service). Once the effective date is determined, the owner or operator must notify the Department of the exact date. This specific effective date must be added to the source's title V permit at the first opportunity, such as a modification, revision, reopening, or renewal of the title V permit for any reason, whichever comes first, but in no case later than the next renewal.

(iii) **The expiration date of the Clean Unit designation.** If this date is not known when the Clean Unit designation is initially recorded into the title V permit (*e.g.*, because the air pollution control technology is not yet in service), then the permit must describe the event that will determine the expiration date (*e.g.*, the date the control technology is placed into service). Once the expiration date is determined, the owner or operator must notify the Department of the exact date. The expiration date must be added to the source's title V permit at the first opportunity, such as a modification, revision, reopening, or renewal of the title V permit for any reason, whichever comes first, but in no case later than the next renewal.

(iv) All emission limitations and work practice requirements adopted in conjunction with BACT, and any physical or operational characteristics which formed the basis for the BACT determination (*e.g.*, possibly the emissions unit's capacity or throughput).

(v) Monitoring, recordkeeping, and reporting requirements as necessary to demonstrate that the emissions unit continues to meet the criteria for maintaining the Clean Unit designation. (See paragraph (x)(7).)

(vi) Terms reflecting the owner or operator's duties to maintain the Clean Unit designation and the consequences of failing to do so, as presented in paragraph (x)(7).

(7) **Maintaining the Clean Unit designation.** To maintain the Clean Unit designation, the owner or operator must conform to all the restrictions listed in paragraphs (x)(7)(i) through (iii). This paragraph (x)(7) applies independently to each pollutant for which the emissions unit has the Clean Unit designation. That is, failing to conform to the restrictions for one pollutant affects the Clean Unit designation only for that pollutant.

(i) The Clean Unit must comply with the emission limitation(s) and/ or work practice requirements adopted in conjunction with the BACT that is recorded in the major NSR permit, and subsequently reflected in the title V permit. The owner or operator may not make a physical change in or change in the method of operation of the Clean Unit that causes the emissions unit to function in a manner that is inconsistent with the physical or operational characteristics that formed the basis for the BACT determination (*e.g.*, possibly the emissions unit's capacity or throughput).

(ii) The Clean Unit must comply with any terms and conditions in the title V permit related to the unit's Clean Unit designation.

(iii) The Clean Unit must continue to control emissions using the specific air pollution control technology that was the basis for its Clean Unit designation. If the emissions unit or control technology is replaced, then the Clean Unit designation ends.

(8) **Netting at Clean Units.** Emissions changes that occur at a Clean Unit must not be included in calculating a significant net emissions increase (that is, must not be used in a "netting analysis"), unless such use occurs before the effective date of the Clean Unit designation, or after the Clean Unit designation expires; or, unless the emissions unit reduces emissions below the level that qualified the unit as a Clean Unit. However, if the Clean Unit reduces emissions below the level that qualified the unit as a Clean Unit, then the owner or operator may generate a credit for the difference between the level that qualified the unit as a Clean Unit and the new emissions limit if such reductions are surplus, quantifiable, and permanent. For purposes of generating offsets, the reductions must also be federally enforceable. For purposes of determining creditable net emissions increases and decreases, the reductions must also be enforceable as a practical matter.

(9) **Effect of redesignation on the Clean Unit designation.** The Clean Unit designation of an emissions unit is not affected by re-designation of the attainment status of the area in which it is located. That is, if a Clean Unit is located in an attainment area and the area is redesignated to nonattainment, its Clean Unit designation is not affected. Similarly, redesignation from nonattainment to attainment does not affect the Clean Unit designation. However, if an existing Clean Unit designation expires, it must re-qualify under the requirements that are currently applicable in the area.

(y) **Clean Unit provisions for emissions units that achieve an emission limitation comparable to BACT.** An owner or operator of a major stationary source has the option of using the Clean Unit Test to determine whether emissions increases at a Clean Unit are part of a project that is a major modification according to the provisions in paragraphs (y)(1) through (11).

(1) **Applicability.** The provisions of this paragraph (y) apply to emissions units which do not qualify as Clean Units under paragraph (x), but which are achieving a level of emissions control comparable to BACT, as determined by the Department in accordance with this paragraph (y).

(2) **General provisions for Clean Units.** The provisions in paragraphs (y)(2)(i) through (iv) apply to a Clean Unit (designated under this paragraph (y)).

(i) Any project for which the owner or operator begins actual construction after the effective date of the Clean Unit designation (as determined in accordance with paragraph (y)(5)) and before the expiration date (as determined in accordance with paragraph (y)(6)) will be considered to have occurred while the emissions unit was a Clean Unit.

(ii) If a project at a Clean Unit does not cause the need for a change in the emission limitations or work practice requirements in the permit for the unit that have been determined (pursuant to paragraph (y)(4)) to be comparable to BACT, and the project would not alter any physical or operational characteristics that formed the basis for determining that the emissions unit's control technology achieves a level of emissions control comparable to BACT as specified in paragraph (y)(8)(iv), the emissions unit remains a Clean Unit.

(iii) If a project causes the need for a change in the emission limitations or work practice requirements in the permit for the unit that have been determined (pursuant to paragraph (y)(4)) to be comparable to BACT, or the project would alter any physical or operational characteristics that formed the basis for determining that the emissions unit's control technology achieves a level of emissions control comparable to BACT as specified in paragraph (y)(8)(iv), then the emissions unit loses its designation as a Clean Unit upon issuance of the necessary permit revisions (unless the unit re-qualifies as a Clean Unit pursuant to paragraph (y)(3)(iv)). If the owner or operator begins actual construction on the project without first applying to revise

the emissions unit's permit, the Clean Unit designation ends immediately prior to the time when actual construction begins.

(iv) A project that causes an emissions unit to lose its designation as a Clean Unit is subject to the applicability requirements of paragraphs (a)(2)(iv)(a) through (d) and paragraph (a)(2)(iv)(f) as if the emissions unit is not a Clean Unit.

(3) **Qualifying or re-qualifying to use the Clean Unit applicability test.** An emissions unit qualifies as a Clean Unit when the unit meets the criteria in paragraphs (y)(3)(i) through (iii). After the original Clean Unit designation expires in accordance with paragraph (y)(6) or is lost pursuant to paragraph (y)(2)(iii), such emissions unit may re-qualify as a Clean Unit under either paragraph (y)(3)(iv), or under the Clean Unit provisions in paragraph (x). To re-qualify as a Clean Unit under paragraph (y)(3)(iv), the emissions unit must obtain a new permit issued pursuant to the requirements in paragraphs (y)(7) and (8) and meet all the criteria in paragraph (y)(3)(iv). The Department will make a separate Clean Unit designation for each pollutant emitted by the emissions unit for which the emissions unit qualifies as a Clean Unit.

(i) **Qualifying air pollution control technologies.** Air pollutant emissions from the emissions unit must be reduced through the use of air pollution control technology (which includes pollution prevention as defined under paragraph (b)(36) or work practices) that meets both the following requirements in paragraphs (y)(3)(i)(a) and (b).

(a) The owner or operator has demonstrated that the emissions unit's control technology is comparable to BACT according to the requirements of paragraph (y)(4). However, the emissions unit is not eligible for a Clean Unit designation if its emissions are not reduced below the level of a standard, uncontrolled emissions unit of the same type (*e.g.*, if the BACT determinations to which it is compared have resulted in a determination that no control measures are required).

(b) The owner or operator made an investment to install the control technology. For the purpose of this determination, an investment includes expenses to research the application of a pollution prevention technique to the emissions unit or to retool the unit to apply a pollution prevention technique.

(ii) **Impact of emissions from the unit.** The Department must determine that the allowable emissions from the emissions unit will not cause or contribute to a violation of any national ambient air quality standard or PSD increment, or adversely impact an air quality related value (such as visibility) that has been identified for a Federal Class I area by a Federal Land Manager and for which information is available to the general public.

(iii) **Date of installation.** An emissions unit may qualify as a Clean Unit even if the control technology, on which the Clean Unit designation is based, was installed before the date these provisions become effective. However, for such emissions units, the owner or operator must apply for the Clean Unit designation before a period not exceeding twenty-four months following the date these provisions become effective. For technologies installed on and after the date these provisions become effective, the owner or operator must apply for the Clean Unit designation at the time the control technology is installed.

(iv) **Re-qualifying as a Clean Unit.** The emissions unit must obtain a new permit (pursuant to requirements in paragraphs (y)(7) and (8)) that demonstrates that the emissions unit's control technology is achieving a level of emission control comparable to current-day BACT, and the emissions unit must meet the requirements in paragraphs (y)(3)(i)(a) and (y)(3)(ii).

(4) **Demonstrating control effectiveness comparable to BACT.** The owner or operator may demonstrate that the emissions unit's control technology is comparable to BACT for purposes of paragraph (y)(3)(i)

according to either paragraph (y)(4)(i) or (ii). Paragraph (y)(4)(iii) specifies the time for making this comparison.

(i) **Comparison to previous BACT and LAER determinations.** The Administrator maintains an on-line data base of previous determinations of RACT, BACT, and LAER in the RACT/BACT/LAER Clearinghouse (RBLC). The emissions unit's control technology is presumed to be comparable to BACT if it achieves an emission limitation that is equal to or better than the emission limitations achieved by all the sources for which a BACT or LAER determination has been made within the preceding 5 years and entered into the RBLC, and for which it is technically feasible to apply the BACT or LAER control technology to the emissions unit. The Department shall also compare this presumption to any additional BACT or LAER determinations of which it is aware, and shall consider any information on achieved-in-practice pollution control technologies provided during the public comment period, to determine whether any presumptive determination that the control technology is comparable to BACT is correct.

(ii) **The substantially-as-effective test.** The owner or operator may demonstrate that the emissions unit's control technology is substantially as effective as BACT. In addition, any other person may present evidence related to whether the control technology is substantially as effective as BACT during the public participation process required under paragraph (y)(7). The Department shall consider such evidence on a case-by-case basis and determine whether the emissions unit's air pollution control technology is substantially as effective as BACT.

(iii) **Time of comparison.**

(a) **Emissions units with control technologies that are installed before the date these provisions become effective.** The owner or operator of an emissions unit whose control technology is installed before the date these provisions become effective, may, at its option, either demonstrate that the emission limitation achieved by the emissions unit's control technology is comparable to the BACT requirements that applied at the time the control technology was installed, or demonstrate that the emission limitation achieved by the emissions unit's control technology is comparable to current-day BACT requirements. The expiration date of the Clean Unit designation will depend on which option the owner or operator uses, as specified in paragraph (y)(6).

(b) **Emissions units with control technologies that are installed on and after the date these provisions become effective.** The owner or operator must demonstrate that the emission limitation achieved by the emissions unit's control technology is comparable to current-day BACT requirements.

(5) **Effective date of the Clean Unit designation.** The effective date of an emissions unit's Clean Unit designation (that is, the date on which the owner or operator may begin to use the Clean Unit Test to determine whether a project involving the emissions unit is a major modification) is the date that the permit required by paragraph (y)(7) is issued or the date that the emissions unit's air pollution control technology is placed into service, whichever is later.

(6) **Clean Unit expiration.** If the owner or operator demonstrates that the emission limitation achieved by the emissions unit's control technology is comparable to the BACT requirements that applied at the time the control technology was installed, then the Clean Unit designation expires 10 years from the date that the control technology was installed. For all other emissions units, the Clean Unit designation expires 10 years from the effective date of the Clean Unit designation, as determined according to paragraph (y)(5). In addition, for all emissions units, the Clean Unit designation expires any time the owner or operator fails to comply with the provisions for maintaining the Clean Unit designation in paragraph (y)(9).

(7) **Procedures for designating emissions units as Clean Units.** The Department shall designate an

emissions unit a Clean Unit only by issuing a permit through Regulation 61-62.1 including requirements for public notice of the proposed Clean Unit designation and opportunity for public comment. Such permit must also meet the requirements in paragraph (y)(8).

(8) **Required permit content.** The permit required by paragraph (y)(7) shall include the terms and conditions set forth in paragraphs (y)(8)(i) through (vi). Such terms and conditions shall be incorporated into the major stationary source's title V permit in accordance with the provisions of the applicable title V permit program under 40 CFR 70 or 40 CFR 71, but no later than when the title V permit is renewed.

(i) A statement indicating that the emissions unit qualifies as a Clean Unit and identifying the pollutant(s) for which this designation applies.

(ii) **The effective date of the Clean Unit designation.** If this date is not known when the Department issues the permit (*e.g.*, because the air pollution control technology is not yet in service), then the permit must describe the event that will determine the effective date (*e.g.*, the date the control technology is placed into service). Once the effective date is known, then the owner or operator must notify the Department of the exact date. This specific effective date must be added to the source's title V permit at the first opportunity, such as a modification, revision, reopening, or renewal of the title V permit for any reason, whichever comes first, but in no case later than the next renewal.

(iii) The expiration date of the Clean Unit designation. If this date is not known when the Department issues the permit (*e.g.*, because the air pollution control technology is not yet in service), then the permit must describe the event that will determine the expiration date (*e.g.*, the date the control technology is placed into service). Once the expiration date is known, then the owner or operator must notify the Department of the exact date. The expiration date must be added to the source's title V permit at the first opportunity, such as a modification, revision, reopening, or renewal of the title V permit for any reason, whichever comes first, but in no case later than the next renewal.

(iv) All emission limitations and work practice requirements adopted in conjunction with emission limitations necessary to assure that the control technology continues to achieve an emission limitation comparable to BACT, and any physical or operational characteristics that formed the basis for determining that the emissions unit's control technology achieves a level of emissions control comparable to BACT (*e.g.*, possibly the emissions unit's capacity or throughput).

(v) Monitoring, recordkeeping, and reporting requirements as necessary to demonstrate that the emissions unit continues to meet the criteria for maintaining its Clean Unit designation. (See paragraph (y)(9)).

(vi) Terms reflecting the owner or operator's duties to maintain the Clean Unit designation and the consequences of failing to do so, as presented in paragraph (y)(9).

(9) **Maintaining a Clean Unit designation.** To maintain the Clean Unit designation, the owner or operator must conform to all the restrictions listed in paragraphs (y)(9)(i) through (v). This paragraph (y)(9) applies independently to each pollutant for which the Department has designated the emissions unit a Clean Unit. That is, failing to conform to the restrictions for one pollutant affects the Clean Unit designation only for that pollutant.

(i) The Clean Unit must comply with the emission limitation(s) and/ or work practice requirements adopted to ensure that the control technology continues to achieve emission control comparable to BACT.

(ii) The owner or operator may not make a physical change in or change in the method of operation of

the Clean Unit that causes the emissions unit to function in a manner that is inconsistent with the physical or operational characteristics that formed the basis for the determination that the control technology is achieving a level of emission control that is comparable to BACT (*e.g.*, possibly the emissions unit's capacity or throughput).

(iii) Reserved

(iv) The Clean Unit must comply with any terms and conditions in the title V permit related to the unit's Clean Unit designation.

(v) The Clean Unit must continue to control emissions using the specific air pollution control technology that was the basis for its Clean Unit designation. If the emissions unit or control technology is replaced, then the Clean Unit designation ends.

(10) **Netting at Clean Units.** Emissions changes that occur at a Clean Unit must not be included in calculating a significant net emissions increase (that is, must not be used in a "netting analysis") unless such use occurs before the date these provisions become effective, or after the Clean Unit designation expires; or, unless the emissions unit reduces emissions below the level that qualified the unit as a Clean Unit. However, if the Clean Unit reduces emissions below the level that qualified the unit as a Clean Unit, then the owner or operator may generate a credit for the difference between the level that qualified the unit as a Clean Unit and the emissions unit's new emissions limit if such reductions are surplus, quantifiable, and permanent. For purposes of generating offsets, the reductions must also be federally enforceable. For purposes of determining creditable net emissions increases and decreases, the reductions must also be enforceable as a practical matter.

(11) **Effect of redesignation on a Clean Unit designation.** The Clean Unit designation of an emissions unit is not affected by redesignation of the attainment status of the area in which it is located. That is, if a Clean Unit is located in an attainment area and the area is redesignated to nonattainment, its Clean Unit designation is not affected. Similarly, redesignation from nonattainment to attainment does not affect the Clean Unit designation. However, if a Clean Unit's designation expires or is lost pursuant to paragraphs (x)(2)(iii) and (y)(2)(iii), it must re-qualify under the requirements that are currently applicable.

(z) **PCP exclusion procedural requirements.** PCPs shall be provided according to the provisions in paragraphs (z)(1) through (6).

(1) Before beginning actual construction of a PCP project, the owner or operator shall satisfy the requirements of Regulation 61-62.1, Section II.A, "*Construction Permit.* "

(2) Before beginning actual construction of a PCP project that is listed in paragraphs (b)(35)(i) through (vi) of this regulation, the owner or operator shall meet the requirements of Regulation 61-62.1 Section II.A, "*Construction Permit*" and paragraphs (z)(4) and (z)(5) of this regulation.

(3) **Permit process for unlisted projects.** Before beginning actual construction of a PCP project that is not listed in paragraphs (b)(35)(i) through (vi), the owner or operator shall meet the requirements of Regulation 61-62.1 Section II.A, "*Construction Permit"* and paragraphs (q) Public Participation and (z)(4) through (z)(5) of this regulation.

(4)Any project that relies on the PCP exclusion must meet the requirements of paragraphs (z)(4)(i) and (ii).

(i) **Environmentally beneficial analysis.** The environmental benefit from the emissions reductions of pollutants regulated under the Clean Air Act must outweigh the environmental detriment of emissions increases in pollutants regulated under the Clean Air Act. A statement that a technology from paragraphs

(b)(35)(i) through (vi) is being used shall be presumed to satisfy this requirement.

(ii) **Air quality analysis.** The emissions increases from the project will not cause or contribute to a violation of any national ambient air quality standard or PSD increment, or adversely impact an air quality related value (such as visibility) that has been identified for a Federal Class I area by a Federal Land Manager and for which information is available to the general public.

(5) **Content of notice or permit application.** In the permit application sent to the Department, the owner or operator must include, at a minimum, the information listed in paragraphs (z)(5)(i) through (v).

(i) A description of the project.

(ii) The potential emissions increases and decreases of any pollutant regulated under the Clean Air Act and the projected emissions increases and decreases using the methodology in paragraph (a)(2)(iv) that will result from the project, and a copy of the environmentally beneficial analysis required by paragraph (z)(4)(i).

(iii) A description of monitoring and recordkeeping, and all other methods, to be used on an ongoing basis to demonstrate that the project is environmentally beneficial. Methods should be sufficient to meet the requirements in Regulation 61-62.70, *Title V Operating Permit Program*.

(iv) A certification that the project will be designed and operated in a manner that is consistent with proper industry and engineering practices, in a manner that is consistent with the environmentally beneficial analysis and air quality analysis required by paragraphs (z)(4)(i) and (ii), with information submitted in the notice or permit application, and in such a way as to minimize, within the physical configuration and operational standards usually associated with the emissions control device or strategy, emissions of collateral pollutants.

(v) Demonstration that the PCP will not have an adverse air quality impact (*e.g.*, modeling, screening level modeling results, or a statement that the collateral emissions increase is included within the parameters used in the most recent modeling exercise) as required by paragraph (z)(4)(ii). An air quality impact analysis is not required for any pollutant that will not experience a significant emissions increase as a result of the project.

(6) **Operational requirements.** Upon installation of the PCP, the owner or operator must comply with the requirements of paragraphs (z)(6)(i) through (iv).

(i) **General duty.** The owner or operator must operate the PCP in a manner consistent with proper industry and engineering practices, in a manner that is consistent with the environmentally beneficial analysis and air quality analysis required by paragraphs (z)(4)(i) and (ii), with information submitted in the notice or permit application required by paragraph (z)(5), and in such a way as to minimize, within the physical configuration and operational standards usually associated with the emissions control device or strategy, emissions of collateral pollutants.

(ii) **Recordkeeping.** The owner or operator must maintain copies on site of the environmentally beneficial analysis, the air quality impacts analysis, and monitoring and other emission records to prove that the PCP operated consistent with the general duty requirements in paragraph (z)(6)(i).

(iii) **Permit requirements.** The owner or operator must comply with any provisions in the State Implementation Plan-approved permit or title V permit related to use and approval of the PCP exclusion.

(iv) **Generation of emission reduction credits.** Emission reductions created by a PCP shall not be

included in calculating a significant net emissions increase unless the emissions unit further reduces emissions after qualifying for the PCP exclusion (*e.g.*, taking an operational restriction on the hours of operation). The owner or operator may generate a credit for the difference between the level of reduction which was used to qualify for the PCP exclusion and the new emissions limit if such reductions are surplus, quantifiable, and permanent. For purposes of generating offsets, the reductions must also be federally enforceable. For purposes of determining creditable net emissions increases and decreases, the reductions must also be enforceable as a practical matter.

(aa) **Actuals PALs.** The provisions in paragraphs (aa)(1) through (15) govern actuals PALs.

(1) **Applicability.**

(i) The Department may approve the use of an actuals PAL for any existing major stationary source if the PAL meets the requirements in paragraphs (aa)(1) through (15). The term "PAL" shall mean "actuals PAL" throughout paragraph (aa).

(ii) Any physical change in or change in the method of operation of a major stationary source that maintains its total source-wide emissions below the PAL level, meets the requirements in paragraphs (aa)(1) through (15), and complies with the PAL permit:

(a) Is not a major modification for the PAL pollutant;

(b) Does not have to be approved through Regulation 61-62.5, Standard 7, *Prevention of Significant Deterioration*. However, will be reviewed through R. 61-62.1, Section II A. *Permit Requirements*; and

(c) Is not subject to the provisions in paragraph (r)(4) (restrictions on relaxing enforceable emission limitations that the major stationary source used to avoid applicability of the major NSR program).

(iii) Except as provided under paragraph (aa)(1)(ii)(c), a major stationary source shall continue to comply with all applicable Federal or State requirements, emission limitations, and work practice requirements that were established prior to the effective date of the PAL.

(2) **Definitions.** The definitions in paragraphs (aa)(2)(i) through (xi) shall apply to actual PALs consistent with paragraphs (aa)(1) through (15). When a term is not defined in these paragraphs, it shall have the meaning given in paragraph (b) or in the Clean Air Act.

(i) **Actuals PAL** for a major stationary source means a PAL based on the baseline actual emissions (as defined in paragraph (b)(4)) of all emissions units (as defined in paragraph (b)(20)) at the source, that emit or have the potential to emit the PAL pollutant.

(ii) **"Allowable emissions"** means "allowable emissions" as defined in paragraph (b)(3), except as this definition is modified according to paragraphs (aa)(2)(ii)(a) and (b).

(a) The allowable emissions for any emissions unit shall be calculated considering any emission limitations that are enforceable as a practical matter on the emissions unit's potential to emit.

(b) An emissions unit's potential to emit shall be determined using the definition in paragraph (b)(37), except that the words "or enforceable as a practical matter" should be added after "federally enforceable."

(iii) **"Small emissions unit"** means an emissions unit that emits or has the potential to emit the PAL

pollutant in an amount less than the significant level for that PAL pollutant, as defined in paragraph (b)(49) or in the Clean Air Act, whichever is lower.

(iv) **"Major emissions unit"** means:

(a) Any emissions unit that emits or has the potential to emit 100 tons per year or more of the PAL pollutant in an attainment area; or

(b) Any emissions unit that emits or has the potential to emit the PAL pollutant in an amount that is equal to or greater than the major source threshold for the PAL pollutant as defined by the Clean Air Act for nonattainment areas. For example, in accordance with the definition of major stationary source in section 182(c) of the Clean Air Act, an emissions unit would be a major emissions unit for VOC if the emissions unit is located in a serious ozone nonattainment area and it emits or has the potential to emit 50 or more tons of VOC per year.

(v) **"Plantwide applicability limitation (PAL)"** means an emission limitation expressed in tons per year, for a pollutant at a major stationary source, that is enforceable as a practical matter and established source-wide in accordance with paragraphs (aa)(1) through (15).

(vi) **"PAL effective date"** generally means the date of issuance of the PAL permit. However, the PAL effective date for an increased PAL is the date any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

(vii) **"PAL effective period"** means the period beginning with the PAL effective date and ending 10 years later.

(viii) **"PAL major modification"** means, notwithstanding paragraphs (b)(30) and (b)(34) (the definitions for major modification and net emissions increase), any physical change in or change in the method of operation of the PAL source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL.

(ix) **"PAL permit"** means the major NSR permit, the minor NSR permit, or the State operating permit under Regulation 61-62.1, Section II G, or the title V permit issued by the Department that establishes a PAL for a major stationary source.

(x) **"PAL pollutant"** means the pollutant for which a PAL is established at a major stationary source.

(xi) **"Significant emissions unit"** means an emissions unit that emits or has the potential to emit a PAL pollutant in an amount that is equal to or greater than the significant level (as defined in paragraph (b)(49) or in the Clean Air Act, whichever is lower) for that PAL pollutant, but less than the amount that would qualify the unit as a major emissions unit as defined in paragraph (aa)(2)(iv).

(3) **Permit application requirements.** As part of a permit application requesting a PAL, the owner or operator of a major stationary source shall submit the following information to the Department for approval:

(i) A list of all emissions units at the source designated as small, significant or major based on their potential to emit. In addition, the owner or operator of the source shall indicate which, if any, Federal or State applicable requirements, emission limitations, or work practices apply to each unit.

(ii) Calculations of the baseline actual emissions (with supporting documentation). Baseline actual emissions are to include emissions associated not only with operation of the unit, but also emissions

associated with startup, shutdown, and malfunctions.

(iii) The calculation procedures that the major stationary source owner or operator proposes to use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by paragraph (aa)(13)(i).

(4) **General requirements for establishing PALs.**

(i) The Department is allowed to establish a PAL at a major stationary source, provided that at a minimum, the requirements in paragraphs (aa)(4)(i)(a) through (g) are met.

(a) The PAL shall impose an annual emission limitation in tons per year, that is enforceable as a practical matter, for the entire major stationary source. For each month during the PAL effective period after the first 12 months of establishing a PAL, the major stationary source owner or operator shall show that the sum of the monthly emissions from each emissions unit under the PAL for the previous 12 consecutive months is less than the PAL (a 12-month average, rolled monthly). For each month during the first 11 months from the PAL effective date, the major stationary source owner or operator shall show that the sum of the preceding monthly emissions from the PAL effective date for each emissions unit under the PAL is less than the PAL.

(b) The PAL shall be established in a PAL permit that meets the public participation requirements in paragraph (aa)(5).

(c) The PAL permit shall contain all the requirements of paragraph (aa)(7).

(d) The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions units that emit or have the potential to emit the PAL pollutant at the major stationary source.

(e) Each PAL shall regulate emissions of only one pollutant.

(f) Each PAL shall have a PAL effective period of 10 years.

(g) The owner or operator of the major stationary source with a PAL shall comply with the monitoring, recordkeeping, and reporting requirements provided in paragraphs (aa)(12) through (14) for each emissions unit under the PAL through the PAL effective period.

(ii) At no time (during or after the PAL effective period) are emissions reductions of a PAL pollutant that occur during the PAL effective period creditable as decreases for purposes of offsets under 40 CFR 51.165(a)(3)(ii) unless the level of the PAL is reduced by the amount of such emissions reductions and such reductions would be creditable in the absence of the PAL.

(5) **Public participation requirements for PALs.** PALs for existing major stationary sources shall be established, renewed, or increased through a procedure that is consistent with section (q) "Public Participation" of this regulation. The Department must address all material comments before taking final action on the permit.

(6) **Setting the 10-year actuals PAL level.**

(i) Except as provided in paragraph (aa)(6)(ii), the actuals PAL level for a major stationary source shall be established as the sum of the baseline actual emissions (as defined in paragraph (b)(4)) of the PAL

pollutant for each emissions unit at the source; plus an amount equal to the applicable significant level for the PAL pollutant under paragraph (b)(49) or under the Clean Air Act, whichever is lower. When establishing the actuals PAL level, for a PAL pollutant, only one consecutive 24-month period must be used to determine the baseline actual emissions for all existing emissions units. However, a different consecutive 24-month period may be used for each different PAL pollutant. Emissions associated with units that were permanently shut down after this 24-month period must be subtracted from the PAL level. The Department shall specify a reduced PAL level(s) (in tons/yr) in the PAL permit to become effective on the future compliance date(s) of any applicable Federal or State regulatory requirement(s) that the Department is aware of prior to the issuance of the PAL permit. For instance, if the source owner or operator will be required to reduce emissions from industrial boilers in half from baseline emissions of 60 ppm NO_x to a new rule limit of 30 ppm, then the permit shall contain a future effective PAL level that is equal to the current PAL level reduced by half of the original baseline emissions of such unit(s).

(ii) Emissions from units (which do not include modification to existing units) on which operation began less than 24-months prior to the date of the PAL permit application must be added to the PAL level in an amount equal to the potential to emit of the units.

(7) **Contents of the PAL permit.** The PAL permit must contain, at a minimum, the information in paragraphs (aa)(7)(i) through (x).

(i) The PAL pollutant and the applicable source-wide emission limitation in tons per year.

(ii) The PAL permit effective date and the expiration date of the PAL (PAL effective period).

(iii) Specification in the PAL permit that if a major stationary source owner or operator applies to renew a PAL in accordance with paragraph (aa)(10) before the end of the PAL effective period, then the PAL shall not expire at the end of the PAL effective period. It shall remain in effect until a revised PAL permit is issued by the Department.

(iv) A requirement that emission calculations for compliance purposes must include emissions from startups, shutdowns, and malfunctions.

(v) A requirement that, once the PAL expires, the major stationary source is subject to the requirements of paragraph (aa)(9).

(vi) The calculation procedures that the major stationary source owner or operator shall use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total as required by paragraph (aa)(13)(i).

(vii) A requirement that the major stationary source owner or operator monitor all emissions units in accordance with the provisions under paragraph (aa)(12).

(viii) A requirement to retain the records required under paragraph (aa)(13) on site. Such records may be retained in an electronic format.

(ix) A requirement to submit the reports required under paragraph (aa)(14) by the required deadlines.

(x) Any other requirements that the Department deems necessary to implement and enforce the PAL.

(8) **PAL effective period and reopening of the PAL permit.** The requirements in paragraphs (aa)(8)(i) and (ii) apply to actuals PALs.

(i) **PAL effective period.** The Department shall specify a PAL effective period of 10 years.

(ii) **Reopening of the PAL permit.**

(a) During the PAL effective period, the Department must reopen the PAL permit to:

(1) Correct typographical/calculation errors made in setting the PAL or reflect a more accurate determination of emissions used to establish the PAL;

(2) Reduce the PAL if the owner or operator of the major stationary source creates creditable emissions reductions for use as offsets under 40 CFR 51.165(a)(3)(ii); and

(3) Revise the PAL to reflect an increase in the PAL as provided under paragraph (aa)(11).

(b) The Department shall have discretion to reopen the PAL permit for the following:

(1) Reduce the PAL to reflect newly applicable Federal requirements (for example, NSPS) with compliance dates after the PAL effective date;

(2) Reduce the PAL consistent with any other requirement, that is enforceable as a practical matter, and that the State may impose on the major stationary source under the State Implementation Plan; and

(3) Reduce the PAL if the Department determines that a reduction is necessary to avoid causing or contributing to a NAAQS or PSD increment violation, or to an adverse impact on an air quality related value that has been identified for a Federal Class I area by a Federal Land Manager and for which information is available to the general public.

(c) Except for the permit reopening in paragraph (aa)(8)(ii)(a)(1) for the correction of typographical/calculation errors that do not increase the PAL level, all other reopenings shall be carried out in accordance with the public participation requirements of paragraph (aa)(5).

(9) **Expiration of a PAL.** Any PAL that is not renewed in accordance with the procedures in paragraph (aa)(10) shall expire at the end of the PAL effective period, and the requirements in paragraphs (aa)(9)(i) through (v) shall apply.

(i) Each emissions unit (or each group of emissions units) that existed under the PAL shall comply with an allowable emission limitation under a revised permit established according to the procedures in paragraphs (aa)(9)(i)(a) and (b).

(a) Within the time frame specified for PAL renewals in paragraph (aa)(10)(ii), the major stationary source shall submit a proposed allowable emission limitation for each emissions unit (or each group of emissions units, if such a distribution is more appropriate as decided by the Department) by distributing the PAL allowable emissions for the major stationary source among each of the emissions units that existed under the PAL. If the PAL had not yet been adjusted for an applicable requirement that became effective during the PAL effective period, as required under paragraph (aa)(10)(v), such distribution shall be made as if the PAL had been adjusted.

(b) The Department shall decide whether and how the PAL allowable emissions will be distributed and issue a revised permit incorporating allowable limits for each emissions unit, or each group of emissions

units, as the Department determines is appropriate.

(ii) Each emissions unit(s) shall comply with the allowable emission limitation on a 12-month rolling basis. The Department may approve the use of monitoring systems (source testing, emission factors, etc.) other than CEMS, CERMS, PEMS, or CPMS to demonstrate compliance with the allowable emission limitation.

(iii) Until the Department issues the revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under paragraph (aa)(9)(i)(b), the source shall continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emission limitation.

(iv) Any physical change or change in the method of operation at the major stationary source will be subject to major NSR requirements if such change meets the definition of major modification in paragraph (b)(30).

(v) The major stationary source owner or operator shall continue to comply with any State or Federal applicable requirements (BACT, RACT, NSPS, etc.) that may have applied either during the PAL effective period or prior to the PAL effective period except for those emission limitations that had been established pursuant to paragraph (r)(4), but were eliminated by the PAL in accordance with the provisions in paragraph (aa)(1)(ii)(c).

(10) **Renewal of a PAL.**

(i) The Department shall follow the procedures specified in paragraph (aa)(5) in approving any request to renew a PAL for a major stationary source, and shall provide both the proposed PAL level and a written rationale for the proposed PAL level to the public for review and comment. During such public review, any person may propose a PAL level for the source for consideration by the Department.

(ii) **Application deadline.** A major stationary source owner or operator shall submit a timely application to the Department to request renewal of a PAL. A timely application is one that is submitted at least 6 months prior to, but not earlier than 18 months from, the date of permit expiration. This deadline for application submittal is to ensure that the permit will not expire before the permit is renewed. If the owner or operator of a major stationary source submits a complete application to renew the PAL within this time period, then the PAL shall continue to be effective until the revised permit with the renewed PAL is issued.

(iii) **Application requirements.** The application to renew a PAL permit shall contain the information required in paragraphs (aa)(10)(iii)(a) through (d).

(a) The information required in paragraphs (aa)(3)(i) through (iii).

(b) A proposed PAL level.

(c) The sum of the potential to emit of all emissions units under the PAL (with supporting documentation).

(d) Any other information the owner or operator wishes the Department to consider in determining the appropriate level for renewing the PAL.

(iv) **PAL adjustment.** In determining whether and how to adjust the PAL, the Department shall consider the options outlined in paragraphs (aa)(10)(iv)(a) and (b). However, in no case may any such adjustment fail to comply with paragraph (aa)(10)(iv)(c).

(a) If the emissions level calculated in accordance with paragraph (aa)(6) is equal to or greater than 80 percent of the PAL level, the Department may renew the PAL at the same level without considering the factors set forth in paragraph (aa)(10)(iv)(b); or

(b) The Department may set the PAL at a level that it determines to be more representative of the source's baseline actual emissions, or that it determines to be more appropriate considering air quality needs, advances in control technology, anticipated economic growth in the area, desire to reward or encourage the source's voluntary emissions reductions, or other factors as specifically identified by the Department in its written rationale.

(c) Notwithstanding paragraphs (aa)(10)(iv)(a) and (b):

(1) If the potential to emit of the major stationary source is less than the PAL, the Department shall adjust the PAL to a level no greater than the potential to emit of the source; and

(2) The Department shall not approve a renewed PAL level higher than the current PAL, unless the major stationary source has complied with the provisions of paragraph (aa)(11) (increasing a PAL).

(v) If the compliance date for a State or Federal requirement that applies to the PAL source occurs during the PAL effective period, and if the Department has not already adjusted for such requirement, the PAL shall be adjusted at the time of PAL permit renewal or title V permit renewal, whichever occurs first.

(11) **Increasing a PAL during the PAL effective period.**

(i) The Department may increase a PAL emission limitation only if the major stationary source complies with the provisions in paragraphs (aa)(11)(i)(a) through (d).

(a) The owner or operator of the major stationary source shall submit a complete application to request an increase in the PAL limit for a PAL major modification. Such application shall identify the emissions unit(s) contributing to the increase in emissions so as to cause the major stationary source's emissions to equal or exceed its PAL.

(b) As part of this application, the major stationary source owner or operator shall demonstrate that the sum of the baseline actual emissions of the small emissions units, plus the sum of the baseline actual emissions of the significant and major emissions units assuming application of BACT equivalent controls, plus the sum of the allowable emissions of the new or modified emissions unit(s) exceeds the PAL. The level of control that would result from BACT equivalent controls on each significant or major emissions unit shall be determined by conducting a new BACT analysis at the time the application is submitted, unless the emissions unit is currently required to comply with a BACT or LAER requirement that was established within the preceding 10 years. In such a case, the assumed control level for that emissions unit shall be equal to the level of BACT or LAER with which that emissions unit must currently comply.

(c) The owner or operator obtains a major NSR permit for all emissions unit(s) identified in paragraph (aa)(11)(i)(a), regardless of the magnitude of the emissions increase resulting from them (that is, no significant levels apply). These emissions unit(s) shall comply with any emissions requirements resulting from the major NSR process (for example, BACT), even though they have also become subject to the PAL or continue to be subject to the PAL.

(d) The PAL permit shall require that the increased PAL level shall be effective on the day any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL

pollutant.

(ii) The Department shall calculate the new PAL as the sum of the allowable emissions for each modified or new emissions unit, plus the sum of the baseline actual emissions of the significant and major emissions units (assuming application of BACT equivalent controls as determined in accordance with paragraph (aa)(11)(i)(b)), plus the sum of the baseline actual emissions of the small emissions units.

(iii) The PAL permit shall be revised to reflect the increased PAL level pursuant to the public notice requirements of paragraph (aa)(5).

(12) **Monitoring requirements for PALs.** (i) General requirements. (a) Each PAL permit must contain enforceable requirements for the monitoring system that accurately determines plantwide emissions of the PAL pollutant in terms of mass per unit of time. Any monitoring system authorized for use in the PAL permit must be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation. Additionally, the information generated by such system must meet minimum legal requirements for admissibility in a judicial proceeding to enforce the PAL permit.

(b) The PAL monitoring system must employ one or more of the four general monitoring approaches meeting the minimum requirements set forth in paragraphs (aa)(12)(ii)(a) through (d) and must be approved by the Department.

(c) Notwithstanding paragraph (aa)(12)(i)(b), the owner or operator may also employ an alternative monitoring approach that meets paragraph (aa)(12)(i)(a) if approved by the Department.

(d) Failure to use a monitoring system that meets the requirements of this regulation renders the PAL invalid.

(ii) Minimum performance requirements for approved monitoring approaches. The following are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in paragraphs (aa)(12)(iii) through (ix):

(a) Mass balance calculations for activities using coatings or solvents;

(b) CEMS;

(c) CPMS or PEMS; and

(d) Emission factors.

(iii) Mass balance calculations. An owner or operator using mass balance calculations to monitor PAL pollutant emissions from activities using coating or solvents shall meet the following requirements:

(a) Provide a demonstrated means of validating the published content of the PAL pollutant that is contained in or created by all materials used in or at the emissions unit;

(b) Assume that the emissions unit emits all of the PAL pollutant that is contained in or created by any raw material or fuel used in or at the emissions unit, if it cannot otherwise be accounted for in the process; and

(c) Where the vendor of a material or fuel, which is used in or at the emissions unit, publishes a range of pollutant content from such material, the owner or operator must use the highest value of the range to

calculate the PAL pollutant emissions unless the Department determines there is site-specific data or a site-specific monitoring program to support another content within the range.

(iv) CEMS. An owner or operator using CEMS to monitor PAL pollutant emissions shall meet the following requirements:

(a) CEMS must comply with applicable Performance Specifications found in 40 CFR 60, appendix B; and

(b) CEMS must sample, analyze and record data at least every 15 minutes while the emissions unit is operating.

(v) CPMS or PEMS. An owner or operator using CPMS or PEMS to monitor PAL pollutant emissions shall meet the following requirements:

(a) The CPMS or the PEMS must be based on current site-specific data demonstrating a correlation between the monitored parameter(s) and the PAL pollutant emissions across the range of operation of the emissions unit; and

(b) Each CPMS or PEMS must sample, analyze, and record data at least every 15 minutes, or at another less frequent interval approved by the Department, while the emissions unit is operating.

(vi) Emission factors. An owner or operator using emission factors to monitor PAL pollutant emissions shall meet the following requirements:

(a) All emission factors shall be adjusted, if appropriate, to account for the degree of uncertainty or limitations in the factors' development;

(b) The emissions unit shall operate within the designated range of use for the emission factor, if applicable; and

(c) If technically practicable, the owner or operator of a significant emissions unit that relies on an emission factor to calculate PAL pollutant emissions shall conduct validation testing to determine a site-specific emission factor within 6 months of PAL permit issuance, unless the Department determines that testing is not required.

(vii) A source owner or operator must record and report maximum potential emissions without considering enforceable emission limitations or operational restrictions for an emissions unit during any period of time that there is no monitoring data, unless another method for determining emissions during such periods is specified in the PAL permit.

(viii) Notwithstanding the requirements in paragraphs (aa)(12)(iii) through (vii), where an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored parameter(s) and the PAL pollutant emissions rate at all operating points of the emissions unit, the Department shall, at the time of permit issuance:

(a) Establish default value(s) for determining compliance with the PAL based on the highest potential emissions reasonably estimated at such operating point(s); or

(b) Determine that operation of the emissions unit during operating conditions when there is no correlation between monitored parameter(s) and the PAL pollutant emissions is a violation of the PAL.

(ix) Re-validation. All data used to establish the PAL pollutant must be re-validated through performance testing or other scientifically valid means approved by the Department. Such testing must occur at least once every 5 years after issuance of the PAL.

(13) **Recordkeeping requirements.** (i) The PAL permit shall require an owner or operator to retain a copy of all records necessary to determine compliance with any requirement of paragraph (aa) and of the PAL, including a determination of each emissions unit's 12-month rolling total emissions, for 5 years from the date of such record.

(ii) The PAL permit shall require an owner or operator to retain a copy of the following records for the duration of the PAL effective period plus 5 years:

(a) A copy of the PAL permit application and any applications for revisions to the PAL; and

(b) Each annual certification of compliance pursuant to title V and the data relied on in certifying the compliance.

(14) **Reporting and notification requirements.** The owner or operator shall submit semi-annual monitoring reports and prompt deviation reports to the Department in accordance with the applicable title V operating permit program. The reports shall meet the requirements in paragraphs (aa)(14)(i) through (iii).

(i) **Semi-annual report.** The semi-annual report shall be submitted to the Department within 30 days of the end of each reporting period. This report shall contain the information required in paragraphs (aa)(14)(i)(a) through (g).

(a) The identification of owner and operator and the permit number.

(b) Total annual emissions (tons/year) based on a 12-month rolling total for each month in the reporting period recorded pursuant to paragraph (aa)(13)(i).

(c) All data relied upon, including, but not limited to, any Quality Assurance or Quality Control data, in calculating the monthly and annual PAL pollutant emissions.

(d) A list of any emissions units modified or added to the major stationary source during the preceding 6-month period.

(e) The number, duration, and cause of any deviations or monitoring malfunctions (other than the time associated with zero and span calibration checks), and any corrective action taken.

(f) A notification of a shutdown of any monitoring system, whether the shutdown was permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully operational or replaced with another monitoring system, and whether the emissions unit monitored by the monitoring system continued to operate, and the calculation of the emissions of the pollutant or the number determined by method included in the permit, as provided by (aa)(12)(vii).

(g) A signed statement by the responsible official (as defined by the applicable title V operating permit program) certifying the truth, accuracy, and completeness of the information provided in the report.

(ii) **Deviation report.** The major stationary source owner or operator shall promptly submit reports of any deviations or exceedance of the PAL requirements, including periods where no monitoring is available. A

report submitted pursuant to 40 CFR 70.6(a)(3)(iii)(B) shall satisfy this reporting requirement. The deviation reports shall be submitted within the time limits prescribed by the applicable program implementing 40 CFR 70.6(a)(3)(iii)(B). The reports shall contain the following information:

(a) The identification of owner and operator and the permit number;

(b) The PAL requirement that experienced the deviation or that was exceeded;

(c) Emissions resulting from the deviation or the exceedance; and

(d) A signed statement by the responsible official (as defined by the applicable title V operating permit program) certifying the truth, accuracy, and completeness of the information provided in the report.

(iii) **Re-validation results.** The owner or operator shall submit to the Department the results of any re-validation test or method within 3 months after completion of such test or method.

(15) **Transition requirements.**

(i) The Department may not issue a PAL that does not comply with the requirements in paragraphs (aa)(1) through (15) after the date these provisions become effective.

(ii) The Department may supersede any PAL that was established prior to the date these provisions become effective with a PAL that complies with the requirements of paragraphs (aa)(1) through (15).

(bb) If any provision of this regulation, or the application of such provision to any person or circumstance, is held invalid, the remainder of this regulation, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

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